# Animadverſions

UPON

# Mijn Heer Fagels Letter

CONCERNING OUR

# PENAL LAWS

AND

# TESTS;

WITH

# REMARKS

Upon that SUBJECT.

*Occaſioned by the Publiſhing of that* LETTER.

Allowed to be Publiſh'd this 13th Day of July 1688.

*LONDON*: Printed by *George Larkin* at the *Two Swans* without *Biſhopſgate*. 1688.

BIBLIOTECA NACIONAL

TO

# William Penn Esq;

BY these Papers which I send to be Perused by you, my Worthy Friend, you may perceive I have (as you desired me) Considered the Contens of Mijn Heer Fagel's Letter, concerning our Penal Laws and Tests, and Remarkt upon that Subject, as Occasion was offered.

Before I had finished what I intended therein, The Solution of the Popular Objection against the Repeal of the Penal Laws and Tests, was Published; Therein the Task you imposed upon me, was so effectually Perform'd by the Author, that you may well demand a Reason, why I did not upon sight of it desist from any farther proceeding upon this Subject.

My Apology is, Tho that has Substantially prevented me, you did not formally forbid me.

The Arguments of it are sufficient to fortifie against any Fears Suggested from future Parliaments, if Foundations be well laid in the next, for Liberty of Conscience; and may serve (as is hinted in the Title Page) for an Answer to this Letter of Mijn Heer Fagel, as well as to any other Papers Published upon this Subject. But yet I perceive there are, who adhere to the Opinion in Vogue——That we are more secure in our Religion and Liberties under our present Laws for Oaths and Tests, then we can be by any other Provisiom, if these be Repealed: And they strengthen themselves herein, by what has been declared by this Letter of Mijn Heer Fagel to Mr. James Stewart; and because the Author of that Paper does not stile it an Answer thereto in particular, it still remains with some, as if it were unanswered.

I encline to think (and shall so do till I am otherwise convinced) No man will attempt openly to Relpy upon those Arguments; But I cannot take Silence in this case to be a sufficient Evidence of a Conviction; I have therefore steered another course to break this Silence, by offering some things to be considered upon the Subject matter of Mijn Heer Fagel's, Letter, as a Moot Case.

1. Whether contrary to their Highnesses declared Opinion, many Christians are not Subject to be very ill used, because they differ from the Publick Established Religion, if these Tests continue without any further Provision by a New Law to secure them from such Usage?

2. Whether those Penal Laws and Tests are Effectual to Exclude Roman Catholicks from any share in the Government, Publick Trusts, or Employments; Or whether they have not been improved to a damage, rather then to any real advantage to the Reformed Religion?

3. Whether Better, more Justifiable, and Suitable Security, both for our Religion and Civil Rights, may not be obtained if His Majesty please to give His Royal Assent, by Establishing the several matters proposed in His Declaration for Indulgence, and some other Provisions to be made by a New Law, then can be had or expected by continuing the Penal Laws and Tests as now they are?

What I have written, tends to resolve these points for a Repeal of our Penal Laws and Tests, If it meet not with better Arguments to the contrary then hitherto have been published. I have been the more large upon this Subject, because I am of Opinion, (1) That no man can for the cause of Religion plead any justifiable excuse for his not rendring Subjection to such as are his Superiours in a Natural or Civil Station, in their lawful Commands. (2) That the inflicting Temporal Penalties for such Errors in Religious Opinions as cannot be Evinc'd by the Principles of Reason and Conscience, to be against the common Light of Nature (tho they may be proved by Scripture to be against such mysterious Truths as are proper only to the Christian Religion) is not to be justified either by the general Law of Nature, or general Rules of Scripture. (3) Though the point of Liberty of Conscience seems to be, yet I doubt it is not really granted, but stands in some need to be more fully inculcated. That each person who desires for himself to be free, and not coerced by Penal Laws to Worship God contrary to his Conscience, may be disposed to allow the like Liberty to every other Person who desires it, and is of years of discretion to plead for it upon the like terms.

It is a true saying, Id verum quod Prius: Truth's Elder than Error: But Error has trod upon the Heels of Truth, by Satan's Transforming him-

*himself into an Angel of Light, and his Ministers being Transformed into Ministers of Righteousness; so as that the most Upright, from the first Creation of Man upon the Earth, throughout all succeeding Generations, have been so liable to Temptations, as not always to consider by what Spirit they are Acted——After the Fall of Man, from that Original State of Uprightness wherein he was at first Created, Though Internal Grace through Faith of the Operation of the Spirit of Christ, for the Hope of Redemption by the Promised Seed, first directed the proper use of Religious External Forms, so as to render the Worshippers acceptable therein to God; and in that Respect, Liberty of Conscience had the Precedency of Persecution for Conscience: Yet through the Instigation of that* Old Serpent, *(the Spirit of* Antichrist*) Persecution for Conscience, is as old as the Murther of* Abel. *The Form of Godliness without the Power, (which then began to shew it self in* Cain, *who was of that Wicked one, and slew his* Brother*) has ever since manifested it self in various Forms, like the* Harlot in the Proverbs, *whose Ways are moveable, throughout all Ages in the World.*

Prov. 5. 6. Gal. 4. 29.

*And this evil Persecuting Spirit crept, and still insinuates it self into the visible Church; and into such among them, as have a Zeal for God, and for an outside Form of Godliness, but not according to Knowledge. And this is so much the more remarkable, because, although the Tract of Holy Scriptures discovers, and often repeats the doleful Effects of this (formal, pretended Godly Correction of an Erroneous, but really cruel) Persecution of an Upright Conscience; and has preserved upon Record from the Beginning to the Conclusion of Holy Writ, the very Name of the first Bloody Transgressor of this sort, often Repeated, that it might be rendred odious to all future Ages, especially under the Gospel: Yet how oft has it happned, (to the Evidence of the Divine Original, and Verity of Scripture-Prophesies) that even such as read them, & pretend, but do not attend to be guided by their Voice, have fulfilled them in Condemning the Just? And whilst they speak, as in the Language of the* Jews, *when they* built the Tombs, *and* Garnished the Sepulchres of the Righteous; *(if they had lived in their Fathers Days, they would not have been Partakers with them in the Blood of the Prophets,) even in the interim, are stupidly regardless of the temper of their own Minds, then bent upon, and in the next Opportunity, actually Persecuting the Righteous, so as to fill up the Measure of their Fathers, and bring upon themselves the* Blood of all the Prophets, which was shed from the Foundation of the World. *My Inducement to touch upon these Points, & the Hopes I have conceived, that by His Majesty's Royal Countenance and Authority, the destructive Instruments of this Inhumane Persecuting Spirit may be taken out of the Way; so as that, although the Malignity of it be as incurable as that of* Babylon, *mentioned by the Prophet* Jeremiah; *yet its Rage shall be so fettered as no more to take away Peace from the Earth; whereto the setling, and bounding of Religious and Civil Interests, upon, and within their distinct proper Foundations and Limits, will greatly Contribute.*

Jer. 51. 7, 8, 9. Mic. 3. 3, 4, 5.

*I cannot say, as it is reported you have sometimes said, That if you thought, what you advised and perswaded to, were not the safest way, you would reckon your selves concerned to Act another Part: But I can freely say, If I were not of that Mind, I would have chosen to be silent, and Acted no Part at all. But being perswaded, that the modest Handling, throughly Penetrating, and free Debating these Points, may produce such a Settlement amongst us, as is most just and equal; and in that Respect, if it be once well laid, most likely to remain unshaken to Perpetuity.*

*I have therefore written with an Intent, that what I write should be throughly Seann'd, with a Preparation of mind, to bear the Censures of such as have a better discerning, and will discover wherein I have Erred: And in the first Place, submit the whole to your Correction, and Disposal, as you think fit: Wishing, that both you and my self, may so persevere in our mutual Endeavours to do well, that in all our Greetings and Partings, we may (without Transgressing our Lord's Rule) bid each other Heartily*

Farewel.

Animad-

# ANIMADVERSIONS UPON Mijn Heer Fagels Letter, CONCERNING OUR PENAL LAWS AND TESTS.

I Have at the Instance of my worthy Friend for the Truth's sake, set some Hours apart, seriously to Consider the substance of the Letter Written by *Mijn Heer Fagel*, to Mr. *James Stuart*, concerning our Penal Laws for Religious Matters and Tests: And taking this Honourable Pensioner to be an Autheatick Testimony, of their Highnesses of *Orange* Declared Opinion, *THAT NO CHRISTIAN OUGHT TO BE PERSECUTED FOR HIS CONSCIENCE, OR TO BE ILL USED, BECAUSE HE DIFFERS FROM THE PUBLICK AND ESTASTABLISHED RELIGION*; I cannot but acknowledge a great Satisfaction of Mind, to see such a concurrent Evidence born by their Highnesses, to their Royal Father's Gracious Declaration, in a Point, which next to the Blessed Gospel of Our LORD, I take to be of the highest Concern to the Peace of Mankind; as tending to Introduce and Establish Concord and Amicable Conversations, in Families, Neighbourhoods, Cities, Common-Wealths and Kingdoms, where-ever it is Embraced and Candidly Pursued: For, although it may be subject to different Apprehensions, (as all other Opinions are) in the Interpretation, Limitation, or Extent of it; yet its natural Tendency is to Abate, and (as Experience of its Usefulness does increase its Esteem) to Eradicate that Antichristian and Inhumane Temper of Mind, which under a pretence of Zeal for Religion, has provoked Men to be at Variance, Implacable and Unmerciful one towards another; and instead thereof, to instil such Christian-like Dispositions, as will encline to a Peaceable Behaviour, such as is becoming those, who have the Name of Christ (who is the *Prince of Peace*) called upon them.

This Fundamental Maxim of their Highnesses, (though it be venerable for its Antiquity, as well

as its Intrinſick Vertue; for its as old as Chriſtianity it ſelf) has not (as our Sences Teſtify) for a long time been Practiſed, or admitted amongſt us, as a Plea, to prevent the Perſecution or ill-uſage of ſuch Chriſtians, as differ from the National Eſtabliſhed Religion; and in that Reſpect, is but newly upon its Reviving: And therefore it highly concerns all, who need or expect the Benefit of it, to take care, that they themſelves be not Inſtrumental to ſtifle it in its New-Birth; for it requires a gentle and prudent handling, and cannot be Introduced (as it has been thruſt out) by Force or violent Paſſions; but muſt be meekly dropp'd and inſtill'd, by ſuch Methods, and ſuitable Demeanours, as may Commend it to, and Rivet it in the Minds and Underſtandings of thoſe, that have but lately Embraced it.

You ſee by the Sequel of this Lord's Letter, That neither their Highneſſes, nor this Noble Perſon (although Grounded and Principled in this peaceable Opinion) do conceive it any ill Uſage, for Diſſenters from the publick Eſtabliſh'd Religion, to be kept out of Government, and all publick Employment and Truſt: And therefore, if ſuch, who in all other Reſpects, receive the Benefit thereof, are denied that ſhare of Power, Truſt or Profit in publick Stations, which they think they ought alſo to enjoy in common with others; (as any of them are qualified for it upon a civil Account, without any Religious Teſt impoſed) yet Chriſtian Prudence will teach him that values Liberty of Conſcience, and the free, and peaceable Exerciſe of his Religion, by that Eſteem he ought to have of it, not to hazzard the loſs of it again, by an Over-valuation of any Worldly Honour, Power or Profit, but to bear with Contentation of Mind and manifeſt Chearfulneſs, A Character (if impoſed by the Civil Government) of a Perſon not Capacitated for publick Employment, becauſe of his Opinion in Religion, different from the Forms of Worſhip Eſtabliſh'd in the Nation.

It is a high Favour and Obligation to Gratitude, *That on the Diſſenters behalf*, their Highneſſes Declare, *They do not only conſent, as for the Papiſts in His Majeſty's Dominions, having as much Liberty as is allowed them by the States in their Provinces; (ſcilicet, a full Liberty of Conſcience) but heartily approve of the Diſſenters having an entire Liberty, for the full Exerciſe of their Religion, without any Trouble or Hinderance; ſo that none may be able to give them the leaſt Diſturbance on that Account.*

This Grace ſtrictly binds the Diſſenters to manifeſt their real Thankfulneſs to their Highneſſes, by a ſuitable Deportment, *SO FAR AS IS CONSISTENT WITH THEIR DUTY TO GOD AND THEIR KING*; and with ſo much the greater Circumſpection, becauſe their Highneſſes (*Page* 21.) do alſo Declare, *They cannot agree to the Repeal of the Teſts, or any of thoſe Penal Laws, by which the* Roman Catholicks *are ſhut out of both Houſes of Parliament, and out of all publick Employments, Eccleſiaſtical, Civil and Military.* And this Noble Perſon afterwards, adds his own Opinion to the ſame Purpoſe: (*Page* 3.) And yet *HE EVER WAS, AND STILL IS, VERY MUCH AGAINST ALL THOSE WHO WOULD PERSECUTE ANY CHRISTIAN, BECAUSE HE DIFFERS FROM THE PUBLICK AND ESTABLISHED RELIGION; AND HOPES BY THE GRACE OF GOD, TO CONTINUE STILL IN THE SAME MIND.*

And asks, *Who would go about to perſwade him, or any Man elſe, to endeavour to move their Highneſſes, whom God hath Honoured ſo far, as to make them the Protectors of His Church, to approve of, or to conſent to things ſo hurtful, both to the Reformed Religion, and to the Publick Safety.*

His Majeſty's Gracious Declaration for *Liberty of Conſcience*, and thoſe Paſſages foregoing, with others of the like Nature in His Lordſhips Letter, being compared and duly weighed, will plainly Demonſtrate where the ſtreſs lies in Reference to Diſſenters; and how greatly it concerns them, that this Matter be clearly Stated, to the Satisfaction both of His Majeſty and their Highneſſes.

*THE KING OF HIS PRINCELY CARE AND AFFECTION UNTO ALL HIS LOVING SUBJECTS, THAT THEY MAY LIVE AT EASE AND QUIET; AND FOR THE ENCREASE OF TRADE AND ENCOURAGEMENT OF STRANGERS, THOUGHT FIT BY VERTUE OF HIS ROYAL PREROGATIVE, TO ISSUE FORTH HIS DECLARATION OF INDULGENCE; MAKING NO DOUBT OF THE CONCURRENCE OF HIS TWO HOUSES OF PARLIAMENT, WHEN HE SHOULD THINK IT CONVENIENT FOR THEM TO MEET.*

This Indulgence conſiſts of two principal Parts, The one Relating to Eccleſiaſtical Matters,

ters, and the Exercise of Religion in any manner whatsoever: And the other, to Civil and Military Employments.

In the former Case, His Majesty having first Declared, That He would Protect and Maintain all His Subjects of the Church of *England*, in the free Exercise of their Religion, as by Law Established; (as shall be herein, after in the Words of His Royal Declaration, express'd) afterwards declares His Royal Will and Pleasure.

*That from henceforth, the Execution of all, and all manner of Penal Laws in* MATTERS ECCLESIASTICAL, *for not coming to Church, or not Receiving the Sacrament, or for any other Nonconformity to the Religion Established, or for or by Reason of the Exercise of Religion in any manner whatsoever, be immediately Suspended: And the further Execution of the said* Penal Laws, *and every of them, is thereby Suspended.*

In the latter Case. *Forasmuch as he was desirous to have the Benefit of the Service of all His Loving Subjects, which by the Law of Nature, is inseparably Annexed to, and inherent in His Royal Person: And that none of His Subjects might for the future be under any Discouragement or Disability, (who are otherwise well inclined, and fit to serve His Majesty) by Reason of some* Oaths or Tests, *that have been usually Administred on such Occasions; His Majesty did thereby further Declare, That it was His Royal Will and Pleasure, That the Oaths, commonly called* the Oaths of Supremacy and Allegiance: *And also, the several* Tests *and* Declarations *mentioned in the* Acts of Parliament, *made in the 25th and 30th Years of the Reign of His late Royal Brother King* Charles *the Second, should not at any Time thereafter, be Required to be Taken, Declared, or Subscribed by any Person or Persons whatsoever, who was, or should be employed in any Office or place of Trust, either Civil or Military, under His Majesty, or in His Government.* And further, *That it was His Pleasure and Intention, from Time to Time, thereafter to grant His Royal Dispensations under His great Seal, to all His Loving Subjects, so to be employed, who should not take the said* Oaths, *or Subscribe or Declare the said* Tests *or* Declarations, *in the above-mentioned* Acts. *and every of them.*

My Lord *Fagel* tells us, That *their Highnesses of* Orange, *if His Majesty shall think fit further to desire their Concurrence in the Repealing the* Penal Laws, *they are ready to give it; Provided always, that those Laws remain still in their full Vigour, by which the* Roman Catholicks *are shut out of both Houses of* Parliament, *and all Publick Employments, as has been before-mentioned. But to the Repeal of those* Tests, *and these other* Penal Laws *last mentioned, that tend to the Security of the Protestant Religion, for the Reasons expresst in the Letter, they cannot agree.*

Some of the Dissenters upon their first sensible Experience of that great and unexpected change of their Condition, effected by His Majesty's Gracious Declaration of Indulgence, Enlarged from Imprisonment during Life, without Conformity; discharged from Fines and Forfeitures, which they cou'd never have satisfied: At Liberty, not only to follow and attend upon their private Callings, but to Exercise their Religion according to their Consciences, without any Restraint or Disturbance, (*so as they took special Care, that nothing was Preach'd or Taught amongst them, which might any Ways tend to Alienate the Hearts of His Majesty's Subjects from Him or His Government; and that their Meetings and Assemblies, were Peaceably, Openly, and Publickly Held, and all Persons freely admitted to them;*) Reckoned themselves obliged in Duty to God in the first place, for His Merciful Providence; To the King in the next place, for His Gracious Pardon and Indulgence, to pay their Humble and Thankful Acknowledgments: And this they did in their Publick Assemblies, and also in their Solemn Addresses to His Majesty.

Soon after, under an Umbrage of Kindness in a Printed Letter, (Entituled, *A Letter to a Dissenter*) they were rebuked as guilty of Unreasonable Thankfulness, and Pre-cautioned of the Hazzards to which they Exposed themselves, by taking Liberty to Assemble publickly (the only Condition upon which they were permitted to Assemble at all,) before it was Granted, or Confirmed by Parliament: But (this Rebuke and Pre-caution, notwithstanding) the Generality of Dissenters and many others in Conjunction with them, pursued the same Method in Addressing to the King; and many of them, therein assuring His Majesty of their best Endeavours, for Choosing such Members for the next Parliament, as would consent, that the Indulgence granted by His Majesty's Gracious Declaration, should be Confirmed by a *Statute-Law*.

If the Dissenters had not made these Acknowledgments, or should not pursue what they have

promiſed, His Majeſty would have juſt Cauſe to be highly offended; But becauſe they have been driven to this Neceſſity by the Church of *England*, and thoſe in her Communion, by whom they have been always branded with the Marks of Diſloyalty, as if they were Univerſally Seditious, Riotous, Rebellious; and all this, becauſe ſome of them Regularly, others of them Irregularly, in Conjunction with many more than themſelves of the Church of *England*, ſtrove to Defend and Vindicate their own and others Liberties and Priviledges, as Subjects & Chriſtians, of which the generality of the Church of *England*, in Oppoſition to theſe Diſſenters, and the reſt of their own Communion, would make a Surrender, and (as the Author of the *Letter to a Diſſenter* terms it) *a Sacrifice to their Revenge*. If the Diſſenters had no other Plea, but this inevitable Neceſſity to which they were Reduced, that they muſt ſtarve at preſent, to avoid a Forfeiture of their Subſiſtance in the next Generation. It is to be hoped, that what they have done, and promiſed to do in their Addreſſes to His Majeſty, being duly weighed by my Lord *Fagel*, will be ſo Repreſented, as that it may not be any Offence to their Highneſſes.

*Diſſenters*, though in ſuch things as relate indifferently to them all, they may all agree; yet in other things, they diſſent one from another, as much as from thoſe who are no Diſſenters, ſo called in Reference to the Eſtabliſh'd Religion; and in that Coercion of Conſcience, Subjection to Fines, Impriſonments, and Univerſal Ruine, to which, by *Statute-Laws* as they now ſtand, they were all Expoſed. They are equally concerned in an Orderly, and ſuch a Way as is attainable with His Majeſty's Approbation and Royal Aſſent, to endeavour, that all thoſe Laws may be either Totally, or in part Repealed; and the reſt ſo Explained, as that none of them may be Expoſed to the Severity of them for Conſcience ſake.

But although the Preſſures under which the Diſſenters were laid, are a ſufficient neceſſitous Excuſe, for what they have done, and further obliged themſelves to do, in their Humble & Thankful Addreſſes to the King: Yet for His Lordſhips more entire Satisfaction that their Neceſſities have not driven them to do any more, than what is agreeable with their Principles, in Relation to Civil Government; and ſuch Laws as are requiſite for its Support, Dignity and Safety, ſo far as I am capable of underſtanding their Reaſons for ſo doing, by a general Converſation amongſt moſt ſorts of them, for many Years paſt: I am deſirous they ſhould be Communicated for a general Satisfaction; and more particularly and eſpecially, that his Lordſhip may know them, if he will vouchſafe to read my Sentiments therein, who am an old Diſſenter from the Diſcipline, Service, and Statute Law, Worſhip and ſome Canons; but no Adverſary to the Doctrines in general, or Conſtitution of the Church of *England*.

His Lordſhip is pleaſed to ſay, (*Page* 4.) That *it is certain, that there is no* Kingdom, Commonwealth, Conſtituted Body, *or* Aſſembly *whatſoever, in which there are not Laws made for the Safety thereof; and that Provide againſt all Attempts whatſoever, that diſturb their Peace, and that preſcribe the Conditions and Qualities that they judge neceſſary for all that ſhall bear Employments in that Kingdom, State, or Corporation: And no man can pretend, that there is any Injury done him, that he is not admitted to Employments, when he doth not ſatisfie the Conditions and Qualities Required.*

And afterwards, (*page* 7.) *Our Laws are Expreſs, Excluding* Roman Catholicks *by Name, from all ſhare in the Government, and from all Employments, esther of the Policy or Juſtice of our Countrey: It is true, I do not know of any expreſs Law that ſhuts them out of Military Employments; That had indeed been hard, ſince in the firſt Formation of our State, they joined with us in defending our Publick Liberty, and did us Eminent Service during the Wars, therefore they were not ſhut out from theſe Military Employments; for the publick Safety was no ways endangered by this; both, becauſe their Numbers that ſerved in our Troops were not great, and becauſe the States could eaſily prevent any Inconvenience that might ariſe out of that, which could not have been done ſo eaſily, if the* Roman Catholicks *had been admitted to a ſhare in the Government, and in the Policy and Juſtice of our State.*

And further, (*page* 8.) *Since the matter that is now in Hand, Relates not to the making of New Laws, but to the Total Repealing of thoſe already made both by King and Parliament: Their Highneſſes do not ſee how it can be expected of them, that they ſhould Conſent to ſuch a Repeal, to which they have ſo juſt an Averſion; as being a thing, that is contrary to the Laws and Cuſtoms of all* Chriſtian States, *whether* Proteſtants *or* Papiſts, *who receive none to a ſhare in the Government, or publick Employments, but thoſe who*

Profeſs

*Profeſs the Publick and Eſtabliſh'd Religion, and take Care to ſecure it againſt all Attempts whatſoever.* And a little before, *Their Highneſſes are Convinced in their Conſciences, that both the Proteſtant Religion, and the Safety of the Nation, would be Expoſed to moſt certain Dangers, if either the* Teſts, *or thoſe other* Penal Laws, *of which I have made frequent mention, ſhould be Repeal'd.*

To ſeveral of theſe things, it is my intent, humbly to offer my Diſſent: But I deſire to do it with all Deference to his Lordſhip, and humble Submiſſion to the Judgment and Determination of my Superiours, on whoſe Shoulders the weight of Government, whether Legiſlative, or Executive, lies; and in whoſe Hands reſpectively, are both the Right and Power of Diſpoſing all publick Employments.

Civil Government, is Ordained of God for the good of Mankind; Dominion is founded in Nature, and ſo of Conſequence, is Subjection to Superiours. The Diſſenters, who acknowledge the Scriptures to be the Word of God Revealed from Heaven, and to contain, the ſtanding general Rules of Faith, Worſhip and Converſation, are therein taught, and readily admit, that every Soul ought to be ſubject to the Higher Powers and to every Ordinance of Humane Creation; not only for Wrath, but for Conſcience ſake, and the Lord's ſake.

Every Independent Government, being Supream over its own Subjects, is veſted with a Power to make and Execute ſuch Laws, as are neceſſary, proper, and adequate, for its own Support and Safety; and may juſtly require, not only a Subjective, Paſſive, but an Active Obedience to be given by each particular Subject, in all Lawful Things, as he is thereto Capacitated, and by Authority Commanded.

No matter or thing whatſoever, openly Tranſacted, is Exempted from the Cognizance or Judgment of ſuch, as are ſupream Governours, within their Reſpective Dominions: And it is certain, as my Lord *Fagel* ſays, *There is no ſort of Government, in which there are not Laws made for the Safety thereof, and that Provide againſt all Attempts that diſturb their Peace*; And (*de Facto*) Prescribe Conditions and Qualities as they judge neceſſary for all that ſhall be employed therein.

But that all Conditions and Qualities are alike, neceſſary, equal and juſt, or ſuch as naturally tend to the Peace and Safety of the Government; and that no man can pretend, that there is any Injury done him, that he is not admitted to publick Employments, when he doth not ſatisfie the Conditions and Qualities required: Theſe things fall under farther Conſideration.

If his Lordſhip had not declared the ſpecial Reaſons, why their Highneſſes, and himſelf cannot conſent to a Repeal of the Teſts, and ſome Penal Laws; or not mentioned the Laws of his own Country, nor declared, that the matter now in Hand, relates not to the making of New Laws, but to the total Repealing of thoſe already made, both by King and Parliament. There had been no Occaſion given for ſuch Remarks, as I ſhall now make upon theſe Branches of His Letter;

His Lordſhip very well knows, that as Governments are divers in their Forms and Conſtitutions, one from another, ſo alſo are their Laws and Cuſtoms.

Mr. *Stuart's* Miſtake, gave Occaſion to his Lordſhip to inform him aright, concerning the Laws of his Country; and if his Lordſhip be miſtaken, concerning the Laws and Conſtitutions of Our Kingdom, there is the like Occaſion for a Right Information therein to be given to his Lordſhip, and all others who concern themſelves therein: And as he ſubjoyns the Reaſons, why the *Roman Catholick's* are not ſhut out of Military Employments, but are Excluded by Name from all ſhare in the Government, and from all Employments, either of the Policy or Juſtice of their Country; ſo I may humbly offer to His Lordſhips further Conſideration, ſuch Reaſons as I think to be cogent, why no *Diſſenter, Roman Catholick*, nor *Proteſtant*, if Commanded and Authorized by the King, and in all other Reſpects (not touching his Religion) duly qualified according to Law, to Execute any Employment, Civil or Military, ſhou'd be Excluded from thence, purely, becauſe his Religion or manner of Worſhip, is different from that, which by *Statute-Law* is Eſtabliſh'd to be the publick Worſhip of the Nation.

I doubt not but that forementioned Maxim, which tends to, and is neceſſary for the Maintenance of publick Peace and equal Juſtice, and which is before declared to be the Opinion of their Highneſſes, is built upon the ſame Foundation, which his Lordſhip declares to be the ground, why he is very much againſt all thoſe who would (*Page* 3.) Perſecute any Chriſtian, becauſe he differs from the Publick Eſtabliſh'd Religion. Scil. *Becauſe that Light, with which Religion Illuminates Our Minds, is purely an Effect of God's Mercy to us, and inclines to Pity, and Pray for*

*thoſe*

*those who Err, That God would bring them into the Way of Truth, and to use all Gentle and Friendly Methods, for Reducing them to it.*

And his Lordship may very well say, *That He could never Comprehend,* (for I think, it is not to be Comprehended by any man) *how any that Profess themselves Christians, and that may Enjoy their Religion freely and without any Disturbance, can judge it lawful for them to go about to disturb the Quiet of any Kingdom or State; or to Overturn Constitutions, that so they themselves may be Admitted into Employments.* And let me add to this; from the like Reasons of State and Obligation of Religion, I can as little apprehend, how any that are of the National Religion, and may enjoy both that, and all the publick Benefits of it freely, and without any Disturbance, can go about to disturb the Quiet of this Kingdom; and to make, not only Religious, but our Civil Constitutions so to jarr, and justle one against another, as to threaten the over-turning of the whole; That so under the Umbrage of Statute Laws (in some Respects incoherent, if not with the Fundamental Law, yet with the present State and Management of Publick Affairs;) they themselves may be the only Persons capable of Employments, Exclusive of those many Myriads in the Nation, who upon a Civil Account may justly desire, that such Statute Laws may in an orderly Method, be either in part, or in whole Repealed, or so Limited or Explained, as that they may not for the future, be any more than others of His Majesty's Subjects, entangled in, or subjected to a loss of their Civil Rights, for a good Conscience towards God, or Obedience to the Commands of their King, in such things as are in their own Nature, not only lawful, but necessary to be done.

It may be his Lordship has not taken such strict notice of the Nature of the Government, Constitutions and different Qualities of the Respective kinds of the Laws of *England*, as he has done of those of his own Countrey; all which are necessary to be known, and well pondred before any Solid Judgment can be made in Respect of such Proceedings, as have been, and are like to be amongst us, in the disposal and calling of Persons to Offices, Places of Trust, and Publick Employments.

His Lordship is pleased frequently in his Letter, to put a great Emphasis upon such Laws as he would not have Repealed, in that they are made both by King and Parliament; whereas, setting aside the subject matter, there is nothing more in this, then what is requisite to every Statute that passes into a Law; some of which have never been observed at all, but openly broken every day; and no man ever Prosecuted for the breach of it: Others Prohibiting some sorts of Trades and Merchandizes, which have been Evaded, Neglected, or Connived at, or Dispensed withal, upon divers Occasions not needful to be mentioned: Nothing is more frequent amongst us, then to have Statute Laws made in one Parliament, to be Repealed in part, or in whole, by the next Succeeding, and sometimes in the same Parliament, if of any Long Continuance. But on the other hand the Sages of our Law, have in their Law Books delivered certain Fundamental Maxims, from which we can never recede; as that, If a Statute Law should be made contrary to Common Right, and the General Law of Nature, Reason or Scripture; such a Law would be void of it self: And when Actions have been grounded upon a particular Statute, which in the ordinary construction of words, did seem to Intrench upon any Fundamental Maxims: Our Judges have given another Interpretation of such Statutes, then the words in common construction would bear, rather then give Judgment in any special case against such General and Fundamental Maxims.

The King's Prerogative, is part of the Common Law of *England*, and as this is expresly saved in several Statutes; so it hath been frequently Interpreted by the Sages of our Law, to extend to the Dispensing with Suspending or Pardoning of any Penalty incurred by a Statute-Law, whereby no Subject can derive a particular damage to himself; and wherein the Kings Power is not expresly limited; And where the nature of the Offence is such as may be dispensed with the King is not confined to Number, Place, or Time, for That the Law leaves indefinitely to His Pleasure, that the Remedy may be proportionable to the Occasion: And tho every Penal Statute is intended in some sense *Pro Bono Publico*; yet it may not be *Pro Bono Singulorum Populi*, And in such cases, the Offence is understood to be only to the King's damage in His Publick Capacity of Supream Governour; and therefore wronging none but Himself, His Prerogative may be Exercised as oft and as largly as he is Gratiously Pleased it shall be in Acts of Mercy, Kindness, and Goodness to any of His Subjects who are Obnoxious to Penalties by breach of Penal Laws, so as no other of His Subjects be injur'd thereby in their particular Rights: And in many cases with

with a *Non-obſtante* in His Grant, to a *Non-obſtante* in an Act of Parliament therein Recited.

His Lordſhip is pleaſed to ſay, That it is contrary to the Laws and Cuſtoms of all Chriſtian States, whether Proteſtants or Papiſts, who recieve none to a ſhare in the Government, or to Publick Employments, but thoſe who profeſs the Publick and Eſtabliſhed Religion, and that take care to ſecure it againſt all Attempts whatſoever; But this muſt be taken with an Exception, as to Military Employments in his Lordſhips Country, as he has expreſt it; and alſo with an Exception as to our Kingdom, which as Sr. *Edward Coke* Chief Juſtice has well Obſerv'd, is divided, not only by the Seas, but by its own Laws from all the reſt of the World; for that they have no dependance upon any Forreign Law whatſoever, no not upon the Civil Law; but are in ſuch a manner Appropriated to it ſelf, as that no forreign Precedents are to be objected againſt it; And with this ſpecial Exception in the very Act of Parliament, for the taking the Parliamentary-Teſt in Relation to the the King's Majeſty that now is, being then Duke of *York*, and Heir Preſumptive to the Crown, which in Right of Succeſſion to His Royal Brother, He now Enjoys, there is a Proviſo made in theſe words, *Provided always, that nothing in this Act contained, ſhall extend to His Royal Highneſs the Duke of York.* (*Provided*) had been ſufficient, and I preſume (*always*) will be conſtrued only as Redundant. But as there is no expreſs Saving, ſo neither is there any expreſs limitation of the King's Prerogative in that Act.

I alſo conceive, That His Lordſhips Aſſertion ought to be taken with an Explanation, or farther Exception of ſuch Governments as by their Laws and Conſtitutions admit of the Publick Exerciſe of both Religions, Roman Catholick and Reformed; and alſo of all ſuch Imperial Dyets in *Germany* and *Poland*, as are Conſtituted of of Princes and Palatinates, as well of one as of the other Religion. And tho I have no other Exceptions to add in matter of Fact, as it is limited to Chriſtian States, yet among ſuch as are of the Reformed Religion, who acknowledge the Authority and Verity of the Holy Scripture. It may be alledged that *Ab Origine*, it was no General Rule, Law, or Reaſon of State, in Relation to Civil Government, That all who were admitted to Publick Employment, ſhould be of one and the ſame Religion; I omit to inſtance thoſe mean Exemples which may be given from thence to the Contrary: I ſhall mention only that of the Babylonian and Perſian Kings.

*Nebuchadnezzar* gave directions to the Maſter of his Eunuchs, to bring the Choiceſt of the *Iſraelites* for Wiſdom and Knowledge, to ſtand in the Kings Pallace; *Daniel* and his Brethren were brought, and ſtood before the King (tho they neither were of, nor would take any care to ſecure the Kings Religion, or the Publick Worſhip of the Countrey.) And theſe and others of their Nation were promoted by him: And the Succeeding Perſian Monarchs in Places of Truſt and Publick Employments, and obtained great Priviledges in relation to their own Religion, Nation, Countrey, and Principal City.

But it is to be obſerved, That tho, Liberty-of-Conſcience, was rarely Interdicted by any of the Great Monarchs before, or till the Age after our Saviours manifeſtation in the Fleſh; (ſo that to diſſent from any Eſtabliſhed Religion was no impediment to a Secular Employment) yet an Antichriſtian Spirit ever and anon diſcovered it ſelf in ſuch as had a form of Godlineſs, in their Diſturbing and Oppoſing the true Servants of God, in the Peaceable Enjoyment of their Civil and Religious Liberties, upon the account of their diſſent from ſuch Forms of Worſhip as by Cuſtom or Tradition were commonly uſed. Reformation according to the Revealed Will of God, has often been maligned, whereof we have alſo divers inſtances in Scripture, one I ſhall mention, becauſe (tho it be a digreſſion.) it ſeems apt to our preſent purpoſe.

The Laws of the *Medes* and *Perſian* were (as by a ſtated Maxime) eſteemed un alterable; *Cyrus* their King, as alſo his Succeſſors, having experience of the Wiſdom and Fidelity of ſome of the Jews in their Captivity, not only placed them in Publick Employments, but granted them as a ſpecial Favour, the Rebuilding of their City, and the Temple of God, and Reſtitution of His Worſhip at *Jeruſalem*, according to the Divine Law.

The Kings great Officers, and the Nations inhabiting in the Countries Adjacent (tho they pretended to ſeek and do Sacrifice to the ſame God yet) being Adverſaries to the Jews Reſtitution and Reformation of Divine Worſhip, obtained countermands to this Perſian Kings decree, and even in the Reign of *Cyrus*, hired Councellors, to fruſtrate the Jews purpoſes. and by Royal Orders, obtained contrary to the firſt Decree, Interrupted the Progreſs, & full Accompliſhment, thereof for many years after. And tho theſe Kings had Experience of the Fidelity of the Perſons to whom theſe

theſe Favours were granted, yet on Pretenſions that the Grants would be to the Kings damage, and that the Jews in general were (as ſome of them at certain ſeaſons had ſhew'd themſelves to be) a Seditious People: They were prevented for a long time of the full Enjoyment of the Priviledges Granted.

In like manner, (ſo far as the parallel in a due conſtruction will bear) If the States of the United Netherlands had made ſuch a Judgment Univerſally of all tha: were of the Communion of the Church of *Rome*, That they were and would be perfidious to their Civil Governours of another Religion; And had for that Reaſon in the firſt formation of their State, rejected thoſe *Roman Catholicks* who joyned with them in defending their Publick Liberty; They never could have had that Experience of their Fidelity and Eminent Service for which his Lordſhip now applauds them.

It is not my part to ſpeak any thing more concerning the Engliſh Roman Catholicks upon this occaſion, then only to refer to ſuch of our Laws, as in Ages paſt were made by them to Vindicate and Guard the Kings Prerogative, and the Rights of his Subjects, againſt the Uſurpations of the Biſhop of *Rome*, and Clergy of that Communion: But I conceive his Lordſhip (by obſerving the different conduct of thoſe of the Reformed Religion, where they have the Government toward the Roman Catholicks, from what the Roman Catholicks is where they have the Power, and reckon themſelves ſafe towards thoſe of the Reformed Religion) hath adminiſtred a fair occaſion to His Majeſties Subjects of that Communion, to manifeſt how far it conſiſts with their Religion and Reſolution, (whether admitted into, or debarr'd from places of Truſt and Publick Employments) indiſpenſably to perſiſt in their Obdience to the Soveraign Majeſty of this Kingdom, and Amicable and Peaceable Behaviour towards all their fellow Subjects of the Reformed Religion. And whether they will contribute their aſſiſtance in their reſpective Capacities, for eſtabliſhing and preſerving *Liberty of Conſcience*, on ſuch a Foundation as may ſecure all ſorts of *Diſſenters* now, and hereafter from all Penalties and Coercion: For if by any ſuch Declaration it ſhould appear we have *Engliſh Roman Catholicks*, like unto thoſe of the *Netherlands*; This might perhaps make way for ſome diſtinctions to be made in future proviſions, by Law (as heretofore has been done) between ſome Roman Catholicks and others, ſo as to avoid the general condemnation of all who are of their Communion (as other parties have been to the injury of many Thouſands) by wholeſale; and if it ſhould ever hereafter happen upon proof, That any of our Engliſh Roman Catholicks ſhould do Eminent Service in defence of the Public Peace and Liberty; I make no doubt but the conſequence would extend farther, with reſpect unto ſuch individual Perſons, then it did with the Papiſts in the Netherlands.

For greater Fidelity to the Publick Intereſt could not be ſhewn, then to hazard their Lives, and Perſevere in their Conſtancy with the Reformed Proteſtants, in defence of their Civil Liberties, againſt Armies of their own Religion, when any Act of Treachery (as the Princes of the *Philiſtians* ſaid to the King of *Gath*, 1 *Sam.* 27. 4, 5. concerning King *David*) might have Reconciled them to thoſe of their own Communion, perhaps with a ſecular Advantage to themſelves, and Hazard, if not certain Ruine of the Lives and Liberties of the Reformed Proteſtants: Certainly thoſe Individual Perſons (if the Conditions of their Service were not before hand expreſly limited to a Military Station) might think they were hardly uſed, to be excluded by Name for the ſake of their Religion, from all ſhare in the Government and other publick Imployments, which they had been inſtrumental with others to recover and defend.

There is one paſſage more in his Lordſhip's Letter, which will lead me to what I have farther to add upon this occaſion.

His Lordſhip ſays, *He would gladly ſee one ſingle good Reaſon, to move a Proteſtant that fears God, and that is concerned for his Religion, to conſent to the Repealing of thoſe Laws that have been Enacted by the Authority of the King and Parliament, which have no other Tendency, but to the Security of the Reformed Religion, and to the reſtraining of the Roman Catholicks from a capacity of overturning it: Theſe Laws inflict neither Fines nor Puniſhments, and do only Exclude the Roman Catholicks from a ſhare in the Government; who by being in Employments muſt needs ſtudy to Encreaſe their Party, and to gain to it more Credit and Power, which by what we ſee every day, we muſt conclude, will be extreamly dangerous to the Reformed Religion, and muſt turn to its great Prejudice.*

I have before declared, I have been long reckoned among dissenting Protestants, and do acknowledge it is my Duty (above all earthly things) to Fear GOD, and to be concerned for my Religion. But I must beg his Lordships patience and permission to enquire into the true meaning of this Passage before I attempt to satisfy his Lordships desire. (1.) Because I cannot find any such Law, as is effectual (our present State considered) to keep *Roman Catholicks* and no others out of Imployments, or that do not either directly or of necessary consequence, tend to the inflicting of Fines and Punishments on them, or any other Dissenters if they refuse, or (without the qualifications required) accept the execution of those imployments. (2.) I premise, there may be an Explaining, Qualifying or Repealing any Laws in part, without a general or absolute Repeal of the whole Law: an instance of this kind we have in the Reign of King *James* the First, in the Third year of His Reign, a Law was made for some persons taking and subscribing the Oath commonly called the *Oath* of *Allegiance*, in the form prescribed.

In the Seventh year of the same King, another Law was made, wherein notice is taken of a just defence of the said Oath, against false and unsound Arguments, undertaken and performed by the Kings Majesty, to the great contentment of all his loving Subjects, notwithstanding the gain-saying of contentious adversaries, and in this last Act it is said, *That the form of the Oath tends only to the Declaration of such duty, as every true and well-affected subject, not only by bond of Allegiance, but also by the command of Almighty GOD, ought to bare to his Majesty, his Heirs and Successors.* And Enacts, That every person above the age of Eighteen years, therein mentioned, and intended, shall Make, Take, and Receive a Corporal Oath upon the Evangelists according to the *Tenor and Effect* of the said Oath set forth in the first mentioned Statute before such persons as are in that Act expressed.

In the Kings Epistle to all Christian Monarchs, Free-Princes, and States Prefixt to his Apology, his Majesty declares, *That his Intent in that Oath, was only to meddle with that due temporal obedience, which his Subjects owed to him, and not to intrap, nor inthrall their Consciences*; And in Answer to the Popes Second Breve, *That such as had taken this Oath, had sworn to no more than their Natural Allegiance.*

The Kings Intent being thus declared, His Apology approved by Parliament, and the Oath Explained, satisfied many, so as to take the said Oath, which otherwise would have scrupled it.

Another instance we have in the Reign of Queen *Elizabeth* in the First year of her Majesties Reign, that Statute which prescribes and enjoyns the taking of the Oath called the *Oath of Supremacy*, by all the Clergy and Temporal Officers (whereby they obliged themselves to assist and defend the Queens Highness, her Heirs and Successors in all Jurisdictions united, and annexed to the Imperial Crown of this Realm) does also among other things unite and annex to the Crown all Jurisdictions, Spiritual and Ecclesiastical, which had before, or might Lawfully be exercised for Reformation of all manner of Errors, Heresies and Schisms.

This Act and Oath occasioned many scruples in the minds of her Majesties Subjects; for which cause, soon after the dissolution of this Parliament, and about four years before the Calling of the next, her Majesty, besides the dispensations which she gave to particular Persons upon special reasons) published a Book commonly called the *Queens Injunctions*, wherein she was graciously pleased, *by her Power in Ecclesiastical Affairs*, to declare such a construction and sense of the words of this Oath (expresst in other words much different) as gave Her Subjects in general, relief therein; *and acquitted such of them, as should in the sense she declared, take the said Oath, from all manner of Penalties* (which were very great) *against such as should refuse to take the same.*

In the next succeeding Parliament, which was held in the Fifth year of her Majesties Reign, this Oath of Supremacy was enjoyned to be taken, not only by all such persons as were mentioned in the former Act, but also by every Member of the Commons House of Parliament; and it was Enacted, That such as should enter into the Parliament House without taking the said Oath, should be deemed no Member thereof, and should suffer such pains and penalties, as if he had presumed to sit in the same, whithout Election, Return, or Authority.

But it was also therein provided, *That the said Oath should be taken and expounded in such form, as was set forth in an Admonition annexed to the Queens Majesties Injunctions, published in the First year of her Majesties Reign*, which was expresst in the Act, and refer'd to the said

Injunctions, by which it more plainly appeared, and in the Eighth year of her Majesties Reign, in an Act then made, it is recited, *That the Queens Highness in Her Letters Patent to any Archbishop, Bishop, or others for Confirming, Investing, and Consecrating of any Person elected to the Office or Dignity of any Archbishop, or Bishop, had not only used such Words and Sentences, as were accustomed to be used by King* Henry, *and King* Edward, *her Majesties Father and Brother, in their like Letters Patents, made for such Causes,* **But also had used and put in her Majesties said Letters Patent, divers other general Words and Sentences, whereby her Highness, by her Supream Power and Authority, had dispensed with all causes or doubts of any imperfection or disability, that could, or might, in any wise be objected against the same.** And the same Statute declares, That all Acts and Things done by any Person or Persons, by vertue of her Majesties Letters Patents, or Commission about any Consecration, Confirmation, or Investing of any Person or Persons, elected to the Office or Dignity of any Archbishop or Bishop, within this Realm, or any other her Majesties Dominions, since the beginning of Her Reign, should be judged, and deemed by Authority of that Parliament, at, and from every of the several times of the doing thereof, good and perfect to all respects and purposes; any matter or thing that could or might be objected to the contrary thereof, in any wise notwithstanding; and provides, that all tenders of the Oath of Supremacy before that Sessions, by vertue of any Act made in the first Session of that Parliament, (which was about three years before) and all refusals of the Oath so tendered by any Archbishop or Bishop, should be void, and of none effect, or validity in the Law; and, that no person or persons, should at any time afterwards be impeached or molested, in Body, Lands, Livings, or Goods, by occasion or mean of any such Certificate, touching or concerning the refusal of the said Oath; and in the preamble of this Act it is declared, *That the State of the Clergy being one of the greatest States of this Realm, it was thought convenient thereby, to touch such Authorities as did allow and approve the making and consecrating of the Archbishops and Bishops to be duly and orderly done according to Law.*

By which proceedings it may appear, That the extent of the Oath of Supremacy, as it might have been taken to be by the first Statute, was by the Queens Admonitions explained, limited and restrained; Any deficiences which were or might be construed to be in the second Act, or in such words and sentences as were used by her Predecessors for Confirming, Investing, or Consecrating Archbishops or Bishops, being one of the great States of this Realm, were by general words and sentences in the Queens Letters Patent and Commissions, supplyed. All causes and doubts of any imperfection or disability, were by the Queens Highness, Supream Power and Authority, removed out of the way: and all that was done pursuant thereunto, declared to be good and perfect, at, and from the time of the doing thereof.

In the King's Apology before mentioned, his Majesty reflects upon the Pope, for having in his Breve dealt both indiscreetly with his Majesty, and injuriously with his own Catholicks: With his Majesty, in not refuting particularly, what special words he quarrell'd in that Oath; which if he had done, *It might have been, that for the fatherly care the King had, not to put any of his Subjects to a needless extremity, he might have been contented in some sort to have reformed or interpreted those words: With his own Catholicks, for either, if the King had so done, they had been thereby fully eased in that business; or at least, if he would not have condescended to have altered any thing in the said Oath, yet would thereby some appearance, or shadow of excuse have been left unto them for refusing the same, not as seeming thereby to swerve from their Obedience, and Allegiance unto him; but only being staid from taking the same upon the scrupulous tenderness of their Consciences, in regard of those particular words.*

Herein if the King does not assert his Prerogative to extend, to reforming the words of an Oath Established by Law, for the ease of the Consciences of some of his Subjects; yet his Majesty plainly intimates some regard is to be had to those, who did not swerve from their obedience, but were only staid from taking this Oath through scruples of Conscience.

In the Reign of King *Edward* the Sixth, Queen *Elizabeth*, King *James* the First, King *Charles* the First, King *Charles* the Second, divers Grants were made or confirmed, and Toleration given to Strangers for exercise of Religion (in the Principal Cities, and Towns of *England*; as *London*, *Norwich*, *Canterbury*, and *Southampton*)

*Southampton*) in Forms different from the Act of Uniformity of worſhip, with a *Non obſtante* to that Act; And Charters in like manner, in the Reign of all or ſome, of the three laſt Kings, to divers of their own Subjects, for exerciſe of Religion according to their Conſciences in Forreign parts within their Majeſties Dominions, with a diſpenſation as to Laws in force, relating to Religion, and requiring Oaths of Obedience in the form preſcribed by ſuch Laws; and though ſome of theſe Diſſenters, who obtained theſe Grants, have contrary to the common rules of Juſtice and Equity, inflicted temporal penalties upon ſuch of their brethren as have diſſented from the forms of Worſhip, eſtabliſhed by their own municipal Laws, and have therein uſurped a power over Conſcience, which they deſired, and obtained by Grant from the King, might not be exerciſed in reference to themſelves; yet thoſe Regal Grants, made to ſecure them from the penalties which otherwiſe they might have incurred by their Nonconformity to the General Laws in being, reſpecting Religion, Sacrament, and Oaths, (which reacht not only throughout the Realm of *England*, but all other their Majeſties Dominions) have been continued and renewed, without ever being taken notice of in Parliament, as an extention of the Kings Prerogative beyond the due bounds of Law.

By all which inſtances it ſeems to me evident, that his preſent Majeſty has not by his Gracious Declaration of Indulgence, exerciſed his Prerogative in any Caſe, or upon any other Grounds, than has been done before, by his Royal Predeceſſors, reſpecting the nature of the things, but only in the degree, as it is a more general extenſive, and comprehenſive Act of Grace, than any of thoſe ſpecial Grants, which have been made by his Progenitors, grounded upon the moſt univerſal, and evident Maximes of Religion, and Civil Government, viz. *That his Majeſty may have the benefit of the ſervice of all his Loving Subjects, which by the law of nature is inſeparably annext to, and inherent in his Royal Perſon*, without impoſing upon any of them ſuch Religious Teſts, or Oaths, as they cannot in Conſcience to God ſubmit to.

The preſent Laws, which require taking of the Sacrament, Oaths, or Teſts: in order to a reſiding in the Kings Courts, or preſence, or executing offices, and places of truſt, declare the Reaſons thereof to be in that of the Twenty Fifth of the Late King, For preventing dangers, which may happen from Popiſh Recuſants, and quieting the minds of his Majeſty's good Subjects. And in that of the Thirtyeth year of his Reign. For that divers good Laws had been made for preventing the increaſe, and danger of Popery in this Kingdom, had not had the deſired effects by reaſon of the free acceſs, which Popiſh Recuſants had to his Majeſty's Court; and by reaſon of the liberty, which of late ſome of the Recuſants had, and took to ſit and vote in Parliament, and for the ſafety of his Majeſty's Royal Perſon and Government.

I do not remember any Law paſſed in the five years interval, between the firſt and laſt Teſt, which from the Subject matter of it, can be ſuppoſed to be influenced, much leſs carried by any Roman-Catholicks, taking a liberty to ſit and vote in Parliament; nor that any Roman-Catholicks were in that time, or for five years after the laſt Law, proſecuted to effect, ſo as to ſuffer the penalties incurred by either of thoſe Acts. If a due obſervance and execution be the life of any Law; and if upon enquiry, it ſhould be found, that this was wanting; it may thence be infer'd (if any Roman-Catholicks did within this time reſide in this Majeſty's Court) that a Law of this nature, where the King will not incourage, and much more, where he will ſtay the proſecution, is but as a dead letter, and never like to attain its end in that reſpect.

And when all is done that can reaſonably be thought of in this kind, it ſtill remains to be farther conſidered; whether the King in being, be not the ſole and proper judge of his own ſafety; and which of his Subjects ſhall have liberty to reſide in his Courts, and come and abide in his Royal preſence. And if after the paſſing theſe Acts, the Late King had, as his preſent Majeſty has required many of his diſſenting Subjects, Roman-Catholicks or Proteſtants (who could not in conſcience take the Sacrament, Oaths, and Teſts, in the form preſcribed) to attend his Perſon, and execute his Lawful commands with a *Non obſtante* to theſe Poenal Laws. I ſee not how they could have been juſtified in refuſing to obey ſuch commands, nor if they therein do no more, than what they are obliged to, by their true duty, and ſervice of Allegiance; how it can conſiſt with reaſon and good conſcience, that they ſhould be proſecuted upon theſe, or any ſuch like Poenal Laws, for refuſing to qualify themſelves for ſuch duty and ſervice in the

forms thereby prescribed, which are contrary to their conscience, when the King is pleased to dispence with such Laws, and is otherwise satisfied of their Fidelity.

There is one thing more which the Subject matter of the Oaths and Tests, enjoyned by these Laws, lead me to consider; I take the main drift of them, to tend to a discrimination between the understanding and conscience of some men from others, concerning the Religious Opinions, and Practice, therein to be attested in reference to their being admitted into, or excluded from the Royal presence, Publick Trusts and Imployments, and that the weight of these Laws, lies principally in securing the Natural and Civil Rights of the Supream Governor and his Subjects, from being invaded by Recusants; and though the security of the Protestant Religion might also be in the eye of our Legislators, yet the keeping out false Doctrines, Superstition and Idolatry, from corrupting our Religion, was not that which was especially considered in framing these Laws and Tests.

For if it should be supposed, that these Laws (because they require Tests of a Spiritual Nature, in order to admission into a Civil Imploy) are capable of any such Interpretation, as may lay the weight of any Persons being excluded from such Places upon this, That they are Persons guilty of *False Doctrines*, *Idolatrous* and *Superstitious Practices*, and therefore not fit for any Trust in the Government, because the admission of such Persons into those Places, has a tendency to corrupt the Reformed Religion.

Then it would also follow, That whoever is guilty of any other such-like *False Doctrine*, *Idolatrous* or *Superstitious Practice*, or of any open irreligious Crimes, rank'd with, and of as hainous a nature, and as destructive to all True Religion, as These, are equally unfit for such Places: Which Opinion, if followed, would require Tests of another kind, besides these now prescribed.

For the same revealed Doctrines and Rules, which instruct us in the Nature and Use of the Sacrament, and other Holy Mysteries of the Christian Religion, do also instruct us, and give warning, That none be deceived; neither Fornicators, nor Adulterers, nor Effeminate, nor Abusers of themselves with Mankind, nor Thieves, nor Covetous, nor Drunkards, nor Revilers, nor Extortioners (no more than *Idolaters*) shall inherit the Kingdom of GOD.

The Spirit and Soul of the *Christian Religion*, which is *pure and undefiled before God*, consists in the Exercise of Faith, Love, Hope, and such-like Graces; which do all tend to an internal Sanctity, and to a Manifestation of it self in suitable acts of Piety, Charity, and Mercy: And unless such Tests be added, as have a tendency to discriminate such as are Religious, from others who are openly Prophane, the testifying against one sort of *False Doctrine* or *Idolatry* only, will no more Secure our Religion against the growth of Irreligion or Prophaneness (which is as bad as the worst Religious part of *Popery*) than if he that served *Malcham*, should be excluded, when he that served *Belial* might be admitted.

But since this cannot be, neither is it required to be, in reference to Mens enjoying their Natural and Civil Rights, it remains only to be considered, Why any one sort of *Idolatry* or *Superstition*, should exclude any Person from Publick Imployments, rather than another: And this may be (not from the nature of the Worship, but) from the combination of the Worshippers against all others. And if this can be separated, or other sufficient Caution provided, we may be as Secure both in our Civil and Religious Liberties, when these Tests are no more, as we were before they were made. And for the accomplishment of this, nothing can have a more direct and natural tendency, than such a Repeal or Qualifying of Pœnal Laws and Tests, as may set such of the R. Catholicks as shall oblige themselves to be true to the Government and Intereſt of the Nation, upon the same terms of *Security for enjoyment of all their Civil Rights*, with the rest of their fellow-Subjects, notwithstanding their Dissent in Religion.

It was the great Wisdom and Care of King *James* the First, as he declares in his Apology, to distinguish such of his Subjects as were Papists, (and the Rule will hold to every other sort of Christians) who (retaining to themselves their religious Opinions) would acknowledge their Fidelity and Civil Obedience to their Soveraign, from such others as would not so do: Wherein His Majesty proposes a due regard to be had to the Consciences of His Subjects, in reference to their Religion, when they are required to acknowledge that Duty which they owe to their Civil Soveraign. And this is so much the rather worthy imitation, in Civil Constitutions, because it is after the Example of God, in reference to Religious Constitutions;

*That no particular Persons may be Condemned of such Crimes as are charged upon the Church in general Terms, whereof they are Members, if so be they have kept, and can purge themselves from the Crimes objected.*

This appears plainly by such Transactions as relate to the Church, as well under the Law as in the days of the Apostles, when many Corrupt Doctrines and Practices were crept in amongst them. These Churches, and some particular Persons in their Communion, were treated in different manner by the Prophets and Apostles: And though the Churches in general, or the Ruling part of them, have been severely reprehended, and threatned to be punished of God, (except they repented) for teaching or permitting such Corrupt Doctrines and Practices, yet such of their Communion, who kept themselves pure, have alwaies been distinguished from such as were Corrupt. For instance,

In the general Defection from the Purity of GOD's Worship, in the Reign of King *Jeroboam*, some good thing is noted to be in his Son.

What greater Corruption, and Persecution of God's Servants, than in the Reign of King *Ahab*? Yet even then Seven Thousand that had not bowed their Knee to *Baal*, though kept so obscure, as to any open Witness bearing to the true Worship of God, that the Prophet *Elijah* reckoned himself to be alone; and *Obadiah* the Governour of the King's House signalized for his fear of GOD, and secretly nourishing great numbers of his Prophets. The Last of the Prophets, (as he is placed in the Scripture Records) before the Incarnation of Christ, reproves the Priests, whose Lips should keep Knowledge for departing out of the way, causing many to stumble at the Law, and corrupting the Covenant of *Levi*; *Judah* and *Israel*, for committing abominations; yet takes notice, that there were some who feared the Lord, and thought on His Name; for whom a Book of Remembrance was written, that there might be a future discerning by men, between the Righteous and the Wicked. In the daies of our Saviour upon Earth, the Doctors of the Law, *Scribes* and *Pharisees*, had made void the Commands of God by their Traditions, multiplying outward Ceremonies under a shew of Sanctity, and being inwardly unclean, and full of Hypocrisie. The Question is put among themselves, Which of the Rulers or Pharisees have believed on Him? Yet upon a Scrutiny we find *Joseph* an honourable Counsellor, *Nicodemus* a Pharisee and Ruler, and many among the Chief Rulers, who believed on our Lord. Among the Seven Churches of *Asia*, mentioned in the *Apocalyps*, the Church of *Thiatira* is in general commended for her Charity, Service, Faith, Patience, and Works. And the last to be more than the first; yet the Angel of that Church is reproved for suffering false Doctrines and Fornications to be taught and committed amongst them. And such as did so, and all that committed Adultery with them, are threatned by the Lord with great Tribulations, and Death, except they repent. But the rest of her Communion, who did not know the depths of Satan, which others Taught, had none other burthen laid on them, but that which they had to hold fast till the Lord came. And when *Mystery Babylon the Great*, the Mother of Harlots, and Abominations of the Earth, is threatned with a sudden approaching, and utter destruction, there is mention of a Voice from Heaven, to God's People, saying, *Come out of her my People, that ye be not partakers of her sins, and that ye receive not of her plagues.*

If the state of the Seven Churches in *Asia*, when these Epistles were directed to them respectively, be compared one with the other, great difference will appear, as to their then present condition, for the better or the worse in the Accompt of God. But there is no intimation of any Power given to the best of these Churches, to Unchurch the worst, so long as the Lord by His long-suffering Dispensations of Providence would continue them in the state of a Christian Church, as to the outward form; much less may any private Person presume by his Censures to Unchurch any Christian Church, which was right in its first Constitution, because that some ordinances (which ought to be kept) are therein wanting; or that many Corruptions (which ought to have been kept out) are crept in amongst them.

Nor do I esteem it any disadvantage to the Truth, that the same name which was once deservedly given to a Church, because Right in its Constitution should be given also to such as continue in Succession, (though they vary in many points of Doctrine) whilst they retain the same Essential form of a Church: Nor that it includes any approbation of their Declension from the Truth, any more than the terming of *Jerusalem* the *Holy City*, did so, when they had made void the Law by their Traditions: And to all their other abominations had added a Conspiracy

ſpiracy with the Gentiles, to condemn and crucifie our Saviour. But on the contrary, it may be a ground for Reproof, and a means of Conviction alſo, That any Perſons ſtile themſelves, or are ſtiled by others, to be of ſuch a Church as, according to the Scripture-Records thereof, was originally right in its Doctrine and Conſtitution, if in any thing they deviate from the Truth there once profeſt.

But that which is evident to our preſent purpoſe from all theſe inſtances, is, That as on the one hand it is no excuſe before GOD, for any Perſons to follow the Doctrines, Commands, or Examples of his Rulers in the Church, or the Church in general, when they deviate in Doctrine or Practice from the waies of God. So on the other hand no ſuch univerſal Cenſure of any Church viſible, can be juſtified, which condemns every individual Member thereof, as guilty of the Crimes objected in general againſt the Society, without leaving any room for ſuch of them as can, and are willing, to clear themſelves from the Crimes objected. And if the Crimes objected againſt the generality of ſuch as are in Communion with the Church of *Rome*, or any other Church or Sect of Chriſtians be, that they teach or receive ſuch Doctrines as are inconſiſtent with their Fidelity and Allegiance to their Civil Soveraigns. The Queſtion to be conſidered, is, Whether it be not more Juſt and Equal, after the Example of King *James* the Firſt, to uſe ſuch methods (proper to the preſent ſeaſon as he did formerly) as may diſcriminate the Dutiful from the Diſobedient in Civil things, rather than any other methods which tend to Condemn all, without diſtinction, for the faults of many? And if ſuch a method were introduced, and equal countenance given to all ſorts of Chriſtians, (as they may deſerve it from their Superiours) in their Civil Stations, leaving them to the liberty of a voluntary Choice, as to their Religion and religious Communion, without any coertion of Conſcience by Temporal Penalties, this would probably be the conſequence: Either that they will all equally ſtrive to merit the Favour of their Soveraign, by their True Service and Duty of Natural Allegiance, or He may at leaſt the better diſcern which of them to put moſt confidence in, and towards which to uſe the greater Caution; as Experience may manifeſt, That one ſort or other of them are, by the Doctrines Taught amongſt them, rendered more or leſs obſequious to His Lawful Commands.

From all theſe premiſes, although I have already in effect ſaid, That I cannot find any ſuch Law, which neither directly inflicts, nor conſequentially ſubjects any Perſons to Fines, or Puniſhments, for Conſcience ſake, which are under our preſent Circumſtances in any reſpect effectual to ſerve the Reformed Religion from the Attempts of Papiſts; yet it reſts, That I give his Lordſhip all the ſatisfaction I can, why the *Diſſenters* deſire a new Law may be made, that may either repeal, or otherwiſe limit, or qualify the preſent Laws for Sacrament, Oaths, and Teſts, in ſuch manner, as neither themſelves, nor any others may have any juſt Cauſe to complain of any injury done to them, in their Civil Rights for their Religions ſake.

And I ſhall herein offer ſuch things to be conſidered, as tend to demonſtrate that what is deſired on the Diſſenters behalf, is not only compatible with the true Fear of God; but that which every Proteſtant of the Church of *England* (who truly fears God, and admits this to be a true Doctrine, that no man may do Evil that Good may come of it) is alſo concerned as well for the ſake of his Religion, as for his Civil Intereſt to join with them in, ſo as that they may mutually agree to chuſe ſuch Members to ſerve in the next ſucceeding Parliament, as will (upon equal and juſt Terms of ſecurity to the common intereſt of Religion, and Civil Government) give their Conſents to the Repeal or Alterations and Proviſions deſired.

*Firſt.* For that thoſe Laws which require the taking of the Sacrament-Oaths and Teſts, are rendred ineffectual, and uſeleſs for the preſent ſeaſon, and likely to continue ſo, during this Generation, as to the keeping of any Diſſenter, either Papiſt or Proteſtant, out of Employments, either Civil or Military: Daily experience manifeſts this; for in every place of Dignity, Power, or Truſt, as in the KING's Houſhold, among the Lords of the Treaſury, in the principal Courts of Juſtice, and in Military Commands, Roman Catholicks are placed. And in the greateſt Corporations, among the Aldermen, Sheriffs, and other Officers, both Roman Catholicks, and Proteſtant Diſſenters, by the King's Commiſſion, with a *Non Obſtante* to theſe Laws; ſo that Roman Catholicks, by their refuſal to take the Sacrament, Oaths and Teſts, neither keep themſelves out, nor are kept out of any publick

lick imployments; as my Lord *Fagell* ſeems to ſuppoſe, as things ſtand at preſent.

*Pag.* 5, 6. And his Lordſhip is too honourable a Perſon, and too wiſe a Polititian to deſire, or think, That the Reformed Religion ſhould, and will be ſecured in the Age to come, by a multitude of Fines forfeited in the preſent Age, by ſuch perſons executing publick imployments, who are deſign'd by a Statute-Law to be diſabled; but in fact are not, when the *King* by His Prerogative, under His Great Seal, gives and grants them an Ability and Capacity, to act with a *Non Obſtante* to theſe Statutes; and His Pardon in like manner to every one of them, as oft as they will ask for it.

*Second.* If the Proteſtant Diſſenters that are put into publick Offices, ſhould have the Penalties hereafter levied upon them, they loſe but what is ſaved to them by the *King*'s Bounty and Clemency.

For if the Pœnal Laws had not been ſuſpended by the *King*'s Prerogative, they would have been ruined by the Penalties and Impriſonments, to which theſe Laws made them liable; and which were for a long time with ſeverity put in Execution againſt the generality of them: And though ſuch of them as have read the publick Catechiſms, and Liturgies publiſhed by the Papiſts, if brought by proceſs of Law before any Court of Juſtice; and required to declare, Whether they did believe the Doctrine of Tranſubſtantiation, as it is therein taught, could with a ſafe Conſcience have Anſwer'd on the Negative, yet that would not have excuſed many of them, who muſt have ſuffered the ſame Penalties impoſed for not taking the Sacrament; and it might well have been reckoned highly diſingenious for ſuch as have not been accuſtomed to take the Sacrament, as by Statute-Law is directed, voluntarily, and without any conſtraint, to have taken both Sacrament and Teſt, when their ſo doing, could have no other Conſtruction, but to manifeſt thereby, That they diſtruſted the KING's Prerogative, in preſerving them from that Penalty. And in the mean while, to truſt both their Liberties and Eſtates in their publick Aſſembling to Worſhip, and Worſhiping againſt Statute-Laws, under no other ſhelter, but the Wing of Prerogative. But in regard the reviving the Execution of ſuch Laws will certainly ruine them, whether they be in, or out of publick imployments, no man can juſtly blame them, if in gratitude to His Majeſty, and for their own ſecurity for the future, they endeavour by Repeal, or ſome other Legal Proviſion, to be delivered from them.

*Third.* The Diſſenters have no reaſon to truſt to any Promiſes that are made under the name of the Church of *England*, That they ſhall have Liberty of their Publick Worſhip, if theſe Laws be not Repeal'd: For when any Revolution ſhall happen, no man can tell upon whom to affix theſe Promiſes, any more than thoſe of the like Nature; which beſides the Royal Declaration, were generally made under the ſame name, in order to that which ſucceeded, *viz.* His Late Majeſties Peaceable Reſtauration; and even now, not long before His Preſent Majeſties gracious Declaration, a Treatiſe was publiſhed, and is ſtill mentioned in the Catalogue affixed to the end of ſuch Books, as ſell in great numbers; Intituled, *The Vanity of all Pretenſions to a Toleration*, written by no mean Perſon, or Perſons, as is evident by the Style and Method, in which it is written; ſo that if the Diſſenters do not ſay it is the Doctrine, but feel it is the Practiſe of the Church of *England*, to keep no ſuch Promiſe with Schiſmaticks. All the Anſwer I can think of, will be, Either it was not the Church of *England* that made the Promiſes; or if they did, They ſee Cauſe not to perform it.

And ſo, for hereafter, if Perſecution for Conſcience be revived, it was not the Church of *England* that repented of that Perſecution before, or as now at preſent: It was not the Church of *England* that perſecuted, but ſuch as the Late *King* made Judges and Juſtices: Therefore to avoid all future Dangers to the Diſſenters on the one hand, and all Calumny and Equivocations under the Name of the Church of *England* on the other hand, ſo as to beget a right Underſtanding, and perfect Reconciling of the Church of *England*, and Proteſtant-Diſſenters: The only viſible way is to have ſuch to repreſent them in Parliament, as will join in their humble ſupplications to the *King*; That the National Church by Law Eſtabliſhed, with all its Rights, may be Confirmed by a New Law (removing Temporal Penalties for the Cauſe of Religion (which have been, and will be, the occaſions of Diſcord) out of the way) on ſuch Terms as are propoſed in His Majeſties Declaration, and as may pleaſe the *King* in Parliament to grant it.

*Fourth.* For the ſame reaſon that His Lordſhip

ſhip would not have ſuch Pœnal Laws and Teſts repealed, as tend to ſecure the Reformed Religion (and keep Roman Catholicks out of publick imployments, which they have not done, nor can do). It follows, where there are Laws and Teſts, which tend to keep many Perſons out of publick imployments, who are every other way qualified for it (and if they could be admitted, would by their Behaviour, as well in their publick Stations, as by their general Converſation, not only ſecure, but greatly promote the Reformed Religion); that there ſhould be a Repeal in part, or ſuch other qualifying thoſe Laws and Teſts, as that ſuch Perſons may not for their Conſciencious Non-conformity to ſuch Circumſtances of Religion, as are thereby required, be excluded from publick Stations; and tho' their Highneſſes Conceſſions be very large on behalf of ſuch Perſons, yet this may extend to ſuch Laws, as his Lordſhip might not have in his Thoughts, when he writ his Letter, *viz.* one made in the *Thirteenth*, and another in the *Fourteenth* Year of the Reign of His Late Majeſty, *King CHARLES* the *Second*; the *Firſt*, for Regulating of Corporations, reſpecting Civil Offices; the *Second*, for Uniformity of publick Prayers, Adminiſtration of Sacraments, and other Rites and Ceremonies, relating to the Clergy, Maſters, and Fellows of Colleges, and School-Maſters: By one of theſe Laws great Change of Hands was made in Civil Imployments throughout all the Cities and Corporations in *England*; and by the other of them, at leaſt 1500 Miniſters were deprived of their Benefices; many of which, were fam'd abroad by their Works; and at home, for their profound Learning, and exemplary Piety.

And how much theſe Alterations and Deprivations have tended to the Security of the Reformed Religion; and left any ſort of men, out of a capacity to hurt it, ſuch as have liv'd, and been of age and ſobriety of Mind to diſcern in what degree the Converſation of Multitudes have in *Twenty five* Years paſt, varied from what they were *Twenty five* Years before, are beſt able to give a true Relation.

*Fifth*, Becauſe of that doleful experience which this Iſland has had, of the ill conſequence of all ſorts of Religious Laws and Teſts, with Temporal Penalties annext; By which for theſe 50 years paſt, at divers Seaſons each different party of Proteſtants alternately as they have had power in their hands, or countenance of Authority, have impoſ'd upon ſuch as differ'd from them in forms of publick Worſhip, principally upon this point, to thruſt and keep each other out of places of Truſt, and publick Imployment, which has viſibly and ſenſibly done more hurt to the Reformed Religion, than all the attempts of their Adverſaries could otherwiſe have effected. This manifeſtly calls upon them all to ſurceaſe from all ſuch riged courſes, which none of them can now either in Conſcience or Prudence defend, and by a joynt concurrence to endeavour a removal of all ſuch occaſions of offence out of the way, that it may not be in the power of any, who wait for opportunities, under colour of Law, to ſet Proteſtants at variance amongſt themſelves; that they may bite, devour, and be devoured by one another; and let not any apprehenſion, that ſuch a courſe at this Seaſon will let in Papiſt amongſt them, into Civil or Military imployments, cauſe them to neglect the preſent opportunity; for ſeeing the continuance of theſe Religious Laws and Teſts, with temporal Penalties annext; neither does, nor can keep them out: it is certainly more ſafe (if there were no natural equity or right in the caſe, and much more ſince there is ſo) to let them in under due cautions by a Stated Law, than to tempt them to get all the power they can into their own hands by Arbitrary means, becauſe they cannot be ſecur'd by Law in the enjoyment of Civil Priviledges, equally, and in common with others.

*Sixth*, Becauſe of that neceſſity we are under, of making one more experiment, whether thoſe of the Communion of the Church of England, Proteſtant Diſſenters and Roman Catholicks, cannot live peaceably together, and maintain a good correſpondence in places of publick truſt and imployments, notwithſtanding their different Sentiments in Religion. For his Majeſty has actually mingled and placed together ſome of each ſort in many Commiſſions for publick truſts and imployments; And if it be ſo, as my Lord *Fagell* aſſerts, *That plain Reaſon, as well as Experience, of all Ages, the Preſent, as well as the Paſt, ſhews, That it will be impoſſible for Roman Catholicks and Proteſtants, when they are mixed together in places of truſt, and publick imployments, to live together peaceably, or to maintain a good correſpondence together, they will be certainly always jealous one of another; for the principles, and maximes of both Religions are ſo oppoſite to one another, that* Pag. 6.

in

*in his opinion he does not see how it will be in the power of any Prince, or King whatsoever, to keep down those suspitions and animosities which will be apt to arise upon all occasions.* This certainly calls for such a necessary and timely provision to be made by a new Law, for prevention of such Suspition and Animosities, as cannot be expected from our present Religious pœnal Laws and Tests. In order thereto, His Majesty by his gracious and prudent Conduct, in the Exercise of His Prerogative has laid the Foundation: And that it may be perpetuated, doubts not of the concurrence of His Two Houses of Parliament, to establish and confirm it by a Law: And herein His Majesty proposes a Variation from the Laws and Customs of all such other States, as my Lord *Fagell* mentioned, who receive none into a share in the Government, or to publick Imployments, but those who profess the publick and established Religion. It is not material to enquire how the experience of all Ages has manifested that to be impossible, which no State would ever admit to be tryed; but it is to our purpose to take notice, That where any considerable Party of Men, have been born hard upon by the Laws and Government in their Civil Rights for their Religions sake; their uneasiness therein, has inclined them to lay hold of any occasion to free themselves from such Pressures; and as they apprehended it did arise from the Religious Principles of such as oppresst them; so they have fallen in, which such others, as by their profest Religious Principles offered them ease; thus promoting Civil Contentions, under a shew of regard to Religion to the mutual Injury of each other contending Party, beyond what the matter required, or can be justified by any Principles or Maxims of the Christian Religion: It is therefore much more plain Reason, since we are providentially put upon this new Experiment, which we cannot avoid, that our Statute-Laws be so formed, as may best Answer the natural and present Constitution of our Civil Government, which is necessary to be done, and may be done with Justice, Prudence and Safety, because we cannot shape the present Constitution of our Civil Government, to the present form of all our Statute-Laws, for to attempt the reducing of any Civil Government, or Politick Body in being, who have power in their hands, and a Legal Right to order things necessary for their Ease and Safety, to such a scantling as to shape and square their Actions by such former Satute-Laws, and Methods, as agree not with their present Constitution, is altogether as irrational, as to attempt the clipping and paring the Limbs of any Natural Body, to the proportion of an old-fashioned strait Garment, which he has over-grown, rather than to shape him a new Garment proportioned to his natural Growth.

*Seventh.* One grand promoter of those Discords, which for *Fifty* Years past, have at several times happened in His Majesties Kingdom of Great *Britain*, has manifestly been Coercion of Conscience, incapacitating many for publick Trusts and Imployments, and inflicting of Temporal Penalties for Non-conformity to such Forms of Worship, and Religious Tests, as have been by Statute Laws and Ordinances, imposed upon such as dissented from the National, Established Worship; sometimes of one sort, other times of another, or upon all sorts of Dissenters together. If any Chastisements, or Experience would teach us, we have had sufficient of this sort of Instruction, to make us so wary for the future, as not to run the hazard of any extream Revolutions, but rather to imbrace the present Occasion offered, for rooting out all Inclinations to Civil Dissentions, for different Apprehensions in the Mysterious Doctrines of Christian Religion.

For though it be granted, That Religion ever was, and alwayes ought to be esteemed the chief Intereſt of every Person; and that a chief part of the Civil Soveraigns and Magistrates Work, is to guard, defend, and provide for it, so as that no Person, who is sober, honest, and just in his Life and Conversation; and acknowledges the Worship of GOD, according to his Conscience, and measure of his Understanding, should be subjected to any temporal Loss or Penalties, for the sake of his Religion: And though it be also acknowledged

as a great Bleſſing to any Nation, which hath ſuch Rulers, as will countenance, encourage, and provide for ſuch as are godly, and able to inſtruct others, in ſuch Doctrines, as are according to Godlineſs.

Yet it is withal to be conſidered, that Natural Religion, or Chriſtian Religion, (which is ſuperadded to natural Religion that we may be thereby inſtructed in, and better qualified for the diſcharge of our duty, whether in a Publick or Private Capacity towards God and all men) neither creates nor diſſolves any Title to an Earthly Poſſeſſion, nor any Natural or Civil Order, wherein one Perſon ſtands related to another, but leaves every man to uſe and enjoy all that properly appertains to him on a Natural or Civil Account, in that reſpective Station, either of Rule or Subjection, wherein, by the providence of God, he is born or placed, and continued in the World.

No perſon is, Husband or Wife, Parent or Child, Maſter or Servant, Magiſtrate or Subject, Landlord or Tenant, in vertue of his Religion; nor can any perſon in a private capacity invent a plea under any ſpecious pretence of conſcience to God, (be the Religion he profeſſes true or falſe) to juſtify his treſpaſſing, or breaking in upon the natural or civil Rights of another, becauſe he differs from him in his Religious Opinions, or manner of Worſhiping God; but every ſuch ſort of pleading, would appear to the common ſenſe and reaſon of mankind, upon the firſt view, to be an intruſion, both upon the ſoveraignty of God, and all Civil and Religious Order, and to have no other tendency, but to turn all things into confuſion.

Natural and Civil Government are of Divine Ordination; and ſo is alſo Religion; but each of theſe are diſtinct from the other, in their foundation, continuance, and uſe. They are both ſo ordained of God, that they may, and ought to ſubſiſt together, and both thrive beſt when they retain themſelves within their diſtinct Sphears and Order, without incroaching one upon the other, only with this difference, that natural and civil Government may be preſerved where all other parts of Religion, except what relates to natural and civil Order is rejected; but Chriſtian Religion cannot be preſerved in any Society or Family, where Natural and Civil Government is deſtroyed; for the preſervation of Natural and Civil Order, is of the Eſſence of Chriſtian Religion.

And whatever may be pretended under colour of Religion, ſo far as it has any tendency, to diſturb the Order of Nature, it is Vain and Irreligious.

Both theſe being of Divine Ordination: By the former, we are obliged to be ſubject to ſuch Laws and Rules, as are proper and neceſſary to the Support, Safety, and Ornament of Natural and Civil Government; for without ſuch Rule and Subjection, no Family, or Civil Society, whether they be Religious, Irreligious, or mixt, can ſubſiſt: By the latter, That Soveraignty, which GOD has originally, and alwaies reſerved to himſelf, in, and over every Soul that is Born into the World, in reference to the acknowledgment and worſhip of himſelf (according to the dictates of Natural Conſcience; and that meaſure of the underſtanding of the Divine Will, which he has Revealed, and in various meaſures given to every Soul) is preſerved, and thereby Religion is propagated in Individuals.

Every particular Believer is a Member of that Myſtical Body whereof the Lord Chriſt is the Head, and owes an impartial Subjection to all his Lord's Inſtitutions, reſpecting either his private Devotions or publick Aſſemblings. But ſuch may be the circumſtances of a Man's Life, or ſtate of his Conſcience, as that he may not have an opportunity, or good ground, to Juſtifie his joining himſelf to any Publick Aſſemblies. In this Caſe I leave it to every one to anſwer it to God, and to ſuch as may have an authority over him in the Church of GOD; it not being my purpoſe to intermeddle in theſe things, any otherwiſe than as I conceive they relate to Civil Government.

Civil Societies cannot be ſupported without a concord and mutual aid, either in a Politick or Martial Station. And in this reſpect each Perſon is accountable for his reſpective Charge, to his next Superiour in degree; and all to Him or Them in a politick

tick Capacity or legal Conſtitution, who are Supream; for *a Kingdom divided againſt it ſelf cannot Stand.*

The Soveraignty of GOD, in matters of Religion, over All; and the Rule and Soveraignty of One, or more, over others, in things of a Natural or Civil Relation, being both of God's ordination, (though diſtinct in their reſpective Foundations) the one in Grace, the other in Nature. Yet,

No Caſe can be reaſonably ſuppoſed to ſet them at any ſuch variance, one againſt the other, as that they cannot by the Rules of Juſtice be reconciled; for he that has ordained them both, is the God of Order, and hath likewiſe appointed ſuitable means, that both of them may concurr with, and aſſiſt each other. Natural and Civil Government, Religion, by Countenance, Maintenance, and Protection; Religion Natural, and Civil Government by inſtruction; and ſo each of them may accompliſh their reſpective ends, for which they are ordained of GOD.

And if this be granted, it will neceſſarily follow, That all thoſe Diſcords which are raiſed between them, are occaſioned by ſuch humane Uſurpations upon one, or the other of them, as are not according to God's Ordination. And of ſuch Uſurpations of Natural, Civil, and Eccleſiaſtical Rulers, over the Conſciences of their reſpective Inferiours; and of Eccleſiaſtical Rulers over the Conſciences, and Civil Rights alſo, of their Superiours in a Civil Relation, all ſorts of men have too often, and too long felt the ſad experience. Bleſſed of GOD may he be, who in this reſpect propoſes himſelf to be a Peace-maker, and to ſettle each Intereſt upon its proper Foundation. For Natural, Civil, and Eccleſiaſtical Rulers, by the Ordination of GOD, are not a Terrour to any good Work, but are, and ought to be ſo, to all that is evil, elſe their power would be given them in vain.

But the Exerciſe of the Power of Natural and Civil Rulers, in reſpect to actions of a Civil and Moral Nature, are of one ſort, and that of Eccleſiaſticks of another. And (as before) each of theſe do beſt in their diſtinct kinds, when they keep a due *Decorum* within their reſpective bounds.

No Natural or Civil Superiour can juſtly pretend to an Authority from GOD, to keep the Chriſtian Religion out of his Family, City, or Kingdom; for if that were ſo, the Maſter or Ruler, who is himſelf Irreligious, Idolatrous, or Prophane, might abridge all that are of his Family, or Subjects, of the means of their Converſion and Salvation. The Parent or Maſter may, and ought to inſtruct their Children and Servants in the Knowledge, Religious Fear, and Worſhip of GOD. And if any Child or Childiſh Servant (who with reſpect to his Age, and exerciſe of his Conſcience and Underſtanding, is not *ſui Juris*) refuſe to read any Divine Author, or to learn or repeat by Memory ſuch Leſſons, or to attend upon any Religious Exerciſe, which the Father or Maſter appoints: Such refuſal requires a due Correction; for in ſuch a Child or Servant (who underſtands not how to diſtinguiſh between a Religious and Moral Act, nor what it is to Worſhip GOD in Spirit and in Truth) it is an Immoral Diſobedience, and Breach upon the Natural and Civil Rule of the Parent or Maſter, as much as if they had refuſed any neceſſary Labour; but when ſuch a Child or Servant arrives to ſuch an Underſtanding, as to chuſe, or refuſe any Article or Act of Religion, as it agrees with, or is againſt his Conſcience and Knowledge of the Will of GOD, and manner of his Worſhip, in ſuch a Caſe he ought not to be coerced by any Temporal or Corporal Penalties, either by Parent or Maſter, to act againſt his Conſcience.

Civil Laws reſpecting ſuch actions as purely relate to the Chriſtian Religion, if they be only Declaratory of what GOD commands or forbids, in reference to His Worſhip, may be greatly Inſtrumental to promote true Piety, if no Temporal Penalties be annext, nor Civil Rights thereby invaded.

Temporal Penalties are proper Remedies to Correct the Diſturbers of Civil Order; Eccleſiaſtical Cenſures are a like proper Remedy to purge a Spiritual Communion from Errours and Hereſies, if no Writ, *de Excommunicato Capiendo*, attend upon ſuch Cenſures.

But as no Natural or Civil Rulers may compell any Perſon (who is of years of Diſcretion to judge of his own Religious Actions, and therein with Faith and Underſtanding to commit his Cauſe to GOD) by Temporal Penalties, to profeſs or perform any Myſterious Doctrine or Worſhip, purely relating to the Chriſtian Religion, or to be of any Spiritual Communion: So neither may any Spiritual Congregation inforce their Cenſures any farther, than to expell a diſorderly Perſon out of their Communion.

No man may be driven againſt his Underſtanding and Conſcience, to go out of his Worldly State into a Church. Nor may any man, who is expell'd out of a Church, be driven any farther than out of his Spiritual Communion, back again into his Worldly Eſtate.

An Excommunicate Husband, Parent, or Maſter, does not by his Spiritual Faults forfeit his Natural or Civil Rule over his Wife, Children, or Servants; though the one be retain'd in their Spiritual Communion, and the other caſt out, yet the Communicants ought to diſcharge their Natural and Civil Duties of Obedience to the Perſon Excommunicate; for no Natural or Civil Bonds are diſunited meerly by a Diſunion in Spiritual Communion.

This being a matter of voluntary choice, both as to his entrance into, and continuance in ſuch a Communion ſo long, and no longer, than he approves the Terms, and obſerves the Rules of a Spiritual Nature, which are proper and requiſite for his Communion. The other is fixt by ſuch natural and civil Obligations, as are not ſubmitted to his Choice at any time, until the ſet-terms on which he ſtands ſo related, are by the like natural or civil diſcharges fully accompliſh'd or determined. And if theſe things conſiſt with Chriſtian Religion, as it reſpects Spiritual Communion, and Domeſtick Relations, much more ought they to be regarded, in reference to Subjects Civil Relation to their Soveraign Prince: For in the particular Caſe they only reſpect the maintenance of a natural or civil Peace and Concord, in a Domeſtick State, for a ſeaſon. Wherein the Publick is no otherwiſe concerned, than to correct (not ſpiritual, but) unnatural and uncivil Diſorders, if any ſuch happen. But in the general Caſe, the Obligation of the Subject to the Civil Obedience of his Soveraign, is of an Univerſal Influence, and perpetual Continuance in Succeſſion, whether they be, or continue to be of the ſame, or different Opinions of Religion: Whence no man in particular can diſcharge himſelf till Death puts an Iſſue to the Obligation.

Every open Immoral Act, Undutiful Behaviour of any Perſon, towards ſuch as are his Superiours in a Natural or Civil Relation, Injurious Dealing with his Neighbour, and whatever other Crimes are openly committed againſt the Light of Nature, and common Reaſon of Mankind, fall naturally and neceſſarily under the Civil Governour's Cognizance and Juriſdiction, to be corrected with Temporal Penalties, as may be moſt conducing to the Security, Peace, and Welfare of the *Civil Government*, being the *immediate Concern* thereof. And all ſuch things as reſpect meerly the Natural and Civil Rights of Men, are to be moderated and judged by ſuch as have the Government and Judgment of them, in right of their Natural or Civil Stations; and if wrong Judgment proceed in any particular Caſe, yet it may be ſubmitted to *A Privilege, which might be inſiſted on, may be waved.* A precept obeyed, without any offence to GOD; for Religion is no otherwiſe concerned in Things of this Kind, than as it obliges to give due obedience to the Higher Powers, and teaches to exerciſe ſelf denyal; ſo that a quiet Submiſſion, to an unequal Decree, may be not only without Sin; but well pleaſing to God; but in reference to Acts of Divine Worſhip, eſpecially, ſuch as relate to the Doctrine and Duties of Chriſtian Religion; they are to be performed in Faith, and according to that meaſure of Faith and Knowledge, which every Perſon, who performs any ſuch part of Worſhip, hath attained of the revealed Will of the Inviſible GOD, who is the Object of ſuch Faith and Worſhip.

In this respect the Divine Rule, which is our Guide in Religion, directs us to walk by it, according to our present Attainments, till we arrive at a further degree of Faith and Knowledge.

*Phil.* 3.

Opinions in Religion are subject to vary in one and the same Person, as he by his own search and instruction from others is convinced of any *Truth* which he before conceived to be an *Error*, or of any *Error* which he before embraced as a *Truth*: And in this respect no Human Law, establishing a stated perpetual form of Religious Worship (which doth neither directly, nor of due consequente relate to the Civil Rights of *Soveraign* or *Subject*, or to the general or invariable Laws of *Nature*) can be the adequate Rule of every Mans Faith or Religious Worship in a whole Nation, because, tho it should command what is lawful in it self, yet if it be not apprehended to be so in the Mind and Conscience of him who is required to Obey, it cannot be by him performed in Faith, without which its impossible therein to please God: And if any Religious Act, either for matter or manner, be forbidden by a Human Law (and not forbidden by the Law of God, or common Reason of Mankind, respecting either Divine Worship or necessary Human Policies) which is apprehended by a particular Subject to be commanded of God; if he forbear to do it, because of such a human Prohibition, that can be no excuse for him before God.

And as it is with him who is to Obey, so is it also with respect to the Legislators who make those Religious Laws: The Divine Laws which respect the essential parts of the Worship of God are in themselves invariable, and not to be changed by any human Authority; but when any Persons who have the Soveraign Power make any Laws respecting Religion, its presumed they are made according to the present measure of the Legislators understanding of the Will of God therein. And if we look back to what hath happened in this kind among our selves in former as well as in this last Age, we may find that the Mutations herein made by Statute Laws and Ordinances, has demonstrated a change in the Minds of our Legislators: every succeeding Variation carrying in it self an evidence of an Error or Defect apprehended in the former Establishment.

The Rules relating to Christian Worship, which are given in the Scripeures are Constant and Permanent, always one and same, and divers of these do not only admit and approve of great variety in several matters relating to the Worship of God, but forbid the Rulers of the Church, or any Church in general to impose an Uniformity upon the individual Members of their Communion. In the Church at *Rome*, (*Romans* 14.) such as were Strong might dispute among themselves doubtful or mysterious Points in matters of Religion; but such as were Weak were not to be summoned to, or determined by the Resolutions of the Strong; One that was weak in Faith would eat Heerbs, and drink no Wine, another that was strong believed he might eat all things and drink Wine; each of these are left to their Liberty, and forbid to impose their Latitude or Scruples one upon another; one Man esteemed one Day above another, and regarded it to the Lord; another Man esteemed every Day alike, and did not regard it to the Lord. And the Rule in their Case is plain and positive, every Man was to be a Rule to himself, to do therein or forbear as he was perswaded in his own Mind, *for whatsoever is not of Faith is Sin*: They were all forbid to judge one another, and every Man herein left to give an account of himself to God, and not to judge, set at Nought, or give an Offence to his Brother.

In the Church at *Corinth* (1 *Cor.* 14.) a Latitude was allowed to the respective Members to Preach and Pray in different Langtages and Forms, so as they were each of them performed with the Spirit and Understanding, and (by Interpretation to the Unlearned) all to Edification. The Church were not to forbid any of their Members speaking with Tongues, but to see to it that all things might be done to Edifying, Decently and in Order.

The Apostles Advice was in some Cases *To abstain from Marriage*, but not to forbid Marrying. And his general Behaviour among and towards the *Jews* in observing some Rites in esteem with them in one manner among the *Gentiles* in another manner quite different, becoming all things to all Men that he might gain some: To them that were under the Law, as being under the Law himself; To them that were without the Law, as being himself without the Law. And yet in all this variety of his Behaviour in Religious Matters, and Religious Societies, and Conversation, not without a Law to God, but under a Law to Christ. So that if any Church by its Canons tye all the Members thereof under pain of Cen-



sures

ſures to ſuch an Uniformity in Worſhip, as tends to abridg any individual Members thereof, that Liberty which is granted by the Apoſtle in any of theſe Particulars they therein vary from the invariable Rules of our Lord; and if the Churches or Eccleſiaſtical Rulers within themſelves might not impoſe any ſuch terms of Communion as might deſtroy this Liberty, nor bring any of their Members under any Eccleſiaſtical Cenſures or Judgments for taking a liberty to Diſſent from the reſt, in not obſerving a Day to the Lord, when others would do it, or for Worſhipping in other Manner and Form then the generality of the Church would do, (ſo as the Church were not thereby interrupted in their publick Worſhip) Certainly, by a Parity of Reaſon, this *Chriſtian Liberty* ſhould not be infringed by any Human Laws inflicting temporal Penalties for Non-coaformity to the Days and Modes of Worſhip preſcribed by ſuch Laws, when it is evident ſuch Human Laws have been in proceſs of time, and may be again (from the Reaſons before expreſſed) ſubject to ſuch Mutations, as to inflict Penalties for doing that at one time, as if it were in its ſelf a Crime, which at another time they command, under the like Penalty, to be done, as if it were a poſitive and indiſpenſable Duty; And the removing of all temporal Penalties and Incapacities from ſuch Religious Laws and Teſts ſeems to be ſo much the more reaſonable, becauſe it has always been and is granted on all Hands, That the Natural and Civil Rights of a Supream Governour are neither more or leſs, whether his Conſcience or Religion agree with or differ from the Religion Eſtabliſhed by Statute Laws within his Dominions, and the ſame reaſon may hold, that ſuch of his Subjects alſo, as differ from the Eſtabliſhed Religion, may notwithſtanding their different Sentiments therein, be upon an equal Foot with the reſt of their fellow Subjects, as to the enjoyment of any Civil Rights or Priviledges; eſpecially conſidering that it is not eſſentially neceſſary to, nor under the immediate care or concern of the Civil Government, that all their Subjects ſhould be compelled by any temporal Penalties or Diſabilities to be of one and the ſame Religion, and that by other Cautions a of Civil, and not of a Religious Nature, the Peace and Security of the Civil Government may be ſufficiently provided for.

IX. The contemplation of that ſeries of Divine Providence, which has of late Years been manifeſted amongſt us, adminiſters ſome ground for caution. That we do not irregularly reſiſt the effects of it, nor fret under it, ſo as to tranſgreſs the general Laws of Government, by adhering too much to the Letter of ſome Statute Laws, which agree not very well with the preſent ſtate of it, and may admit of an alteration without the breach of any Divine Law, if a Liberty for every Mans exerciſe of his Religion, according to the Dictates of his Conſcience, (guided by common Reaſon, and the meaſure of his Underſtanding of the Will of God therein) with Security to his Natural and Civil Rights, be of more value in its ſelf, then an Uniformity in any Mode of Worſhip, which is not of choice or voluntary, but conſtrained by temporal Penalties; Then what the *King* deſires herein ought to be complyed with for its own ſake: And if too much inſiſting on an outward Form of Godlineſs, under colour of Law, or exerciſe of Power, even to the prophaning of the Sacred Myſteries to ſo mean a uſe, as not only to keep, or turn Men out of civil Imployments, but to make them ſubſcribe to the granting or denying a Licenſe to ſell *Ale*, & ſo little regarding the Power of Godlineſs, may be a juſt cauſe from above to make us fear other Exerciſes then we have yet felt; it is high time for us to ſeek after ſome other means to preſerve our Religion and Civil Rights, then by continuing ſuch Laws in Force, as have given occaſion, or have been made uſe of to countenance ſuch abuſe of the Sacred Myſteries; And whatever our Fears may juſtly ſuggeſt, as to future Events, it ſeems to be much more juſtifiable and prudent to ſubſcribe to, and alſo improve the preſent Occurrences of Providence, by all ſuch means as are agreeable with our preſent Duty to God and the *King*, and equal right-doing to all Men, and thereby to ſeek and ſecure the peaceable and free exerciſe and enjoyment of our Religious and Civil Rights in ſuch Methods as are propoſed by his *Majeſty* for this preſent Age (leaving the Events in Ages to come, to the iſſues of the ſame Divine Providence which has brought us to the ſtate we are now under) then by reſiſting the preſent Occurrences thereof, and contending to maintain a particular Intereſt, to the prejudice of many others who are not wrapt up therein, (under colour of ſome preſent Laws not agreeing with the preſent ſtate of our Government) to hazard all our Settlement during this Age, upon a preſumption we may in the Generation to come obtain a better

Settlement

Settlement, which presumed better Settlement is so only in esteem with relation to such Interests as may be therein comprehended exclusive of many, and we know not, nor have any certainty how many or what Interests shall be comprehended therein, or excluded thereout. For such as acknowledg the Divine Providence, in bringing about the Changes in Government which have already hapned, and are visible amongst us, will be safe and quiet (at least in their Consciences) in doing that which is indisputably lawful in its self, if not a present indispensable Duty, and trusting to the same Providence, as to future Events, whatever may happen. Then any can be who shall be Instrumental to hinder our present Settlement in opposing such a Course as is lawful in its self, and contending in such a manner as is manifestly inexpedient for the present Season, (and very disputable at the least, whether it be consistent with our present Duty to *God*, and to our *Soveraign*) in case the immediate Consequences, or future Occurrences of such an opposition should prove otherwise then they expect or desire.

X. Another Consideration arises from the termes of the last Test and tendency of the Law by which it is Established. The Law is perpetual, and reaches not only to the then present *King* and *Queen*, but to their *Royal Successors Kings* or *Queens* of *England*. And if any Subject (to perpetuity) who should at any time afterwards be convict of *Popish Recusancy* come advisedly into, or remain in the Presence of the *King* or *Queens Majesty*, or into the Court or House where they or any of them Reside, he shall incur and suffer all the Pains, Penalties, Forfeitures and Disabilities in that Act mentioned or contained, unless every Person so Convict do respectively in the next Term after such his coming or remaining take the Oaths, and make and subscribe the Declaration prescribed in his *Majesties High-Court of Chancery*: And if any *Peer*, or Member of the *House of Peers*, or Member of the *House of Commons*, shall presume to do any thing contrary to that Act, he shall be thenceforth deemed and adjudged a *Popish Recusant*, convict to all intents and purposes whatsoever, And shall Forfeit and Suffer as a *Popish Recusant* convict: This last Clause is somewhat unusal, for it might have sufficed if a *Protestant Peer* or *Member* presumed to do any thing contrary to that Act, that he should suffer like Penalties as a *Popish Recusant*, without being decreed or judged a *Popish Recusant* Convict, for that lays him under many more Penalties, besides those innumerated in that Act; but that which relates to the *Queens Majesty* for the time being, is more observable in reference to Her Servants and Attendants; for the Proviso which was proper for the then present *Queen*, who is now the *Queen Dowager*, that nothing in the Act should relate to any Person being a natural born Subject of the *King of Portugal*, who should then or afterwards be a Sworn Servant to the *Queens Majesty*, not exceeding at any one time Nine in Number, is not so proper to Her *Royal Successor*, Her present *Majesty*, nor will be to any other succeeding *Queen*, if a Native of *England*, or of any other Kingdom except *Portugal*, to whom this Act equally extends, who is not thereby permitted to have any one Man Servant or Officer to attend Her Royal Person, except he be a *Portuguize* by Birth, without being liable for such his Service, to all the Penalties of this Act, if he perform not all the Conditions thereof.

It may be also observed, that the *Test* relates to the then present use in the *Church of Rome*, and the *Test* being a solemn Attestation in the presence of *God*, of the Attestants Belief concerning the matters to be testified and declared requires in the nature of it some what more then a general Report or Tradition, how the usage then was in the *Church of Rome*. And it is not impossible to conceive that a Hundred Years hence, or at some Season or other, within less then that time, the usage in the *Church of Rome* may be very different from what they were then, as to the matters declared in the *Test*, to be *Superstitious* and *Idolatrous*: Neither can it be so well comprehended as it should be in a solemn Declaration of an Article of a *Christians Belief* in the presence of *God*, what may be intended by the usage in the *Church of Rome*, whether universally of every Member who is in Communion with the *Church of Rome*, (for it cannot be supposed to be strictly tyed to the *Church* in the City of *Rome*) or to the generality of that Communion, wherein many Persons may be comprehended, who will not altogether decline or separate their Communion from the *Church of Rome*, tho' they do not Believe or Practice all these things as they are decreed in the Councils of that *Church*, and may be ready to say, *That tho' they adore Saints in other manner then the* Protestants *do, yet they believe with the* Protestants, *that Divine Adoration*

*is due only to God.* When in Diſcourſe with a *Roman Catholick*, of great Knowledg, in the Controverſial Points of their Religion, I alledged the Superſtition and Ineffica cy of their Praying to Saints, in regard they were neither Omnipreſent to hear all Prayers, nor Omniſcient to diſcern between the Sincerity and Hypocriſie of any that Pray'd to them. He gave me no ſatisfactory Anſwer, but returned upon me an Objection, *That thoſe of the Communion of the* Church of England *preſcribed ſomething that look't like it, in their daily Devotions, when they exhorted or called upon the Souls and Spirits of juſt Men made Perfect, and* Ananias, Azarias *and* Miſael *in particular to praiſe the Lord.* To which I could not make him any ſatisfactory Reply, without granting more upon the firſt Point than I thought was conſonant to the Scriptures, which I take to be the Directory of the *Chriſtian Religion.* I write not this in any Caſe as pleading in excuſe, or giving countenance to any Superſtitious or Idolatrous Practice, but to ſhew how abſtruce ſome terms in the *Teſt* are to be preciſely Interpreted and rightly underſtood, and that becauſe by how much the leſs perfectly any ſolemn Oath or Atteſtation is underſtood by ſuch as take it, by ſo much of leſs weight it will be upon the Conſcience to obſerve it; and if in proceſs of time ſuch a Law, being perpetual, may become very improper in the general ſcope of it, and in ſome reſpects is ſo now. The ſooner it comes to be explained, altered or wholly laid aſide, ſo much the better; and if it be well weighed how this Law, and the Law for the firſt *Teſt* alſo intrenches upon ſeveral Points of Royal Prerogative, which in other Caſes, both as to Laws of a Religious and of a Civil Nature, has been heretofore rendred as a reaſon and juſt ground of their Repeal. And how theſe Laws have and do ſubject many Perſons to temporal Penalties and Diſabilities as to the enjoyment of Civil Rights for their Conſcientious Diſſent in Religious Opinions from the *Church of England.* It may appear very juſt and reaſonable, that theſe Laws ſhould be again conſidered in the next ſucceeding *Parliament*, and either Repealed, or otherwiſe ſo explained and altered, That the Sovereign Prerogative, and the Subjects Civil Rights, may be better provided for then they are by theſe Laws as they now remain.

XI. If together with the Repeal deſired, the ſubſtance of the *Kings Declaration* be entirely and in the ſame Law of Repeal enacted, which in the firſt place is *to maintain the Arch-Biſhops, Biſhops, Clergy, and all other his Subjects of the* Church of England *in the free exerciſe of their Religion, as by Law Eſtabliſhed, and in the quiet and full enjoyment of all their Poſſeſſions.* All ſuch grand ſubverſions of the preſent order of things Eccleſiaſtical, and general change of Hands in things of a Civil Nature, as have heretofore happened upon the Succeſſive *Soveraigns* differing from the Religion Eſtabliſhed in the Raign of his Predeceſſors, may not only for the Preſent, but in all future Ages alſo be avoided; and the Mutations which in any gradual courſe are likely to enſue ſuch a Repeal, and proviſion at the ſame time made either in Civil or Religious Concerns, will in all probability be leſs Perceptible, and leſs Inconvenient, during this Generation then ever has been experimented in the like Caſe, or can otherwiſe be reaſonably expected upon ſuch a change in the Government as has now hapned, eſpecially if the Severities for the cauſe of Religion, which have been for many Years exerciſed, and the inconſiſtency of theſe Teſt Laws, made in the Reign of a *Proteſtant King*, as to Attendances on the Perſon of the *Soveraign*, and the Qualifications required as to all Civil and Military Offices upon the Succeſſion of a *King* of the *Roman Catholick Religion* to the Throne, be well conſidered.

XII. A Repeal of ſuch *Penal Laws* and *Teſts*, as are before mentioned, may, if his *Majeſty* pleaſe to give his Royal Aſſent, be recompenced by other Proviſions properly neceſſary to prevent future Mutations. In Eſtabliſhing Corporations upon a more fixt Foundation then they ſtand at preſent, by a previous *Teſt*, of a civil Nature, to be taken by all Perſons therein, and in all other Places and Counties who are otherwiſe qualified to Elect, before they give their Votes in any Election. By Clauſes in the Indentures, before the Elected be returned, and by every Perſon who ſhall be Elected to ſerve in Parliament, or put into any Office or Place of Truſt or Power, in framing Commiſſions for the exerciſe of Judicatures, and many other things of like Nature which the Wiſdom of a Parliament may readily ſuggeſt.

For a Cloſe, by reflecting upon the two main Points before mentioned, the one claimed by his *Majeſty* as inſeperably annext to, and inherent in his Royal Perſon by the Law of Nature,

TO

TO HAVE THE BENEFIT OF THE SERVICE OF ALL HIS LOVING SUBJECTS. The other granted by their *Highnesses*, THAT NO CHRISTIAN OUGHT TO BE ILL USED, BECAUSE HE DIFFERS FROM THE PULICK AND ESTABLISHED RELIGION. There is one thing more occurs which I shall offer to consideration, which seems to me, taken singly (if there were no more to be alledged in this case) a good reason why these *Penal Laws*, which require the taking of the *Sacrament Oaths* and *Tests*, should be either in expres terms repealed, or (which is tantamount) by some new Law, so explained and limited as that the Penalties and Disabilites may not be inevitable, but some way or other (by and consistent with the discharge of a good Conscience towards *God* and the *King*) be avoided. For as the case now stands, His *Majesty* being pleased to Nominate, Authorize and Appoint many Persons who are Dissenters from the Established Religion, (and in that regard cannot with a good Conscience take *Sacraments*, *Oaths* and *Tests* in the manner they are enjoyned) to execute several publick Offices, and some such Persons may also be Called or Elected to serve in Parliament. If any of them do refuse to serve in any of these publick Offices or Places of Trust, they are by our Laws liable to be very ill used by Fines and Imprisonments, and that justly too (as is presumed) because they refuse to Execute such Offices and Places of Trust, as are not only Lawful but Necessary, and must be Executed by them or some others: No Man can by our present Laws excuse himself (when he is not legally priviledged or exempted) from any Service to which he is lawfully called by his own Default, that is by his not qualifying himself according to the Directions of Law for the Execution of those Places, and if he do accept and serve in those Places, without such a Qualification (to which he cannot in Conscience submit) he is obnoxious to as ill usage for Serving and Acting in those Offices and Places of Trust as if he refused, so that until the Law be otherwise declared, or some suiteable Provision in this case made by some other Law. Such as are most conscientious and desirous to discharge that respective Duty which they ow to *God*, their *King*, and their *Country*, in our present Circumstances are more liable then any others to be very ill used; and if this be well considered, that the *King* who has the sole Nomination and Power to Authorize such Persons as he pleases to serve in places of highest Judicature and Trust: And Electors, if they may have their free Choice, as by Law they ought to have, will probably, in many places, chuse such as are *Dissenters* to serve in Parliament, when his *Majesty* shall please to send out his Writs for that purpose. It ought to be shewn, That as the Laws now are, the *King* has no Power to Appoint or Command, and the *Electors* no Power to chuse such Persons to serve in Offices or Places of Trust, or otherwise, it is requisit that these present Laws be Repealed, or so far altered and limitted that such as are Dissenters may be secured in their Conscien es, Civil Liberties and Properties either for serving without taking the *Sacrament Oaths* and *Tests*, or for refusing to serve because they cannot take them; and whosoever shall well weigh the apparent Inconveniences and ill Consequences that are likely to follow on the one Hand, by any Person being permitted to excuse himself from a hazardous or chargeable Office or Place of Trust, upon pretence of Conscience, and the difficulty of contriving any such Law as shall limit the *Kings Prerogative* and the *Subjects Election*, so as that the King shall not command any of his Subjects to attend his Person, serve in Parliament, or execute any publick Office or Imployment Civil or Military, but such only as voluntarily have or will take the *Sacrament*, *Oaths* and *Tests*, and so as the Penalty incurred shall fall upon the Persons who Elect any Man to serve in Parliament, or to any such Office, in case the Person Elected will not Voluntary take them in manner as by Law prescribed. And if it be consider'd on the other Hand how justifiable and equal it is, and how we may be by other ways secured against all Hazards, if these *Penal Laws* and *Tests* be Repealed. It may appear more easie and safe to Repeal these *Laws* and *Tests*, then to contrive any New Law consistent with the continuance of those Laws in force, which shall be effectual to remedy the aforementioned and now unavoidable Inconveniences.

What his Lordship says, pag. 4, 5. That there is a great difference to be observed in the Conduct of those of the *Reformed Religion*, where they have the Government, towards *Roman Catholick's*, and of the Conduct of the *Roman Catholick's* where they have the Government, towards such as are of the *Reformed Religion*, cannot be denyed, and this may be a caution why no

*Pro-*

*Proteſtant Governors*, of a *Proteſtant Nation* ſhould voluntarily invite any *Roman Catholick's* to take a ſhare with them in their Government who cannot claim any right in it, but this does not reach our Caſe at all. We are providentially brought under the Government of a *Sovereign Prince* who is of the *Roman Catholick Religion*, And he hath many Subjects, of the ſame Religion, who by the Laws of Nature claim according to their Quality and Numbers, an equal ſhare with others in the enjoyment of Civil Rights and Priviledges; and under our preſent Circumſtances, it is equally as unjuſt & unſafe to preſs for the execution of ſuch *Penal Laws* againſt them for their Religions ſake, as it would be to preſs for the obſervance of Rules made in a common Caſe, when we fall under ſuch Emergencies as require the ſuperſicn of them. Beſides as we have a *Prince* of the *Roman Catholick Religion*, ſo we have alſo a *Soveraign* who in this reſpect differs from and excels all others of that Religion; in that His deſires are to ſettle all things on ſuch a Foundation, as may be a laſting ſecurity to all his Subjects, ſo far as Soveraign Power, the wiſdom of a Parliament, ſubjects conſent, and common intereſt of the whole can provide; that none of them may ſuffer any dammage in their civil Rights, for the ſake of their Religion, and that all civil Intereſts, notwithſtanding their different opinions in Religion, may be united in the common defence and Security of his Majeſties Kingdoms; a thing moſt deſirable in its ſelf, and moſt conducible to the Safety, Welfare and Honour of the Nation, Other Neighbouring *Kings* and *States* may well be jealous of, and underhand indeavour what they can to prevent ſuch a Settlement but in contemplation that their *Highneſſes* are in a poſſibility of ſucceeding in the *Throne*, I ſee no reaſon why it ſhould not be eſteemed their Intereſt to promote the ſettlement of his *Majeſties Three Kingdomes* on ſuch a Foundation of Peace and Union as is deſigned by his Royal and Gracious *Declaration*.

And if none of theſe things which I have written can prevail with his *Lordſhip*, to move their *Highneſſes* to give their Conſent and Aſſiſtance upon ſuch due terms of caution, as are offered by his *Majeſty* to the repeal of theſe *Penal Laws* and *Teſts*, which ſtand in the way of ſuch a peaceable and laſting Settlement, as is propoſed and deſired, yet I hope it may prevail with him ſo to repreſent to their *Highneſſes* ſuch of the Diſſenters as in their reſpective Stations, indeavour the accompliſhment thereof, as that their *Highneſſes* may not be offended thereat. Becauſe what they have done and ſhall do herein IS OUT OF GRATITUDE AND DUTY TO HIS MAJESTY, OBEDIENCE TO THE GENERAL LAWS BOTH OF NATURAL AND REVEALED RELIGION, AND LOVE TO THE PRINCIPLES AND PROSPERITY OF THE REFORMED RELIGION. *Which forbids every Man to do that to another, which he would not have done to himſelf, and commands every Man to do his preſent duty to God in the firſt place, and to his preſent Soveraign in the next place*; leaving the ſucceſs and future events of their ſo doing to the Wiſe and Gracious diſpoſal of God, who judgeth amongſt the Gods, ſitteth upon the Floods as King for ever, does Rule, and Will over-Rule all things as for his own Glory, ſo alſo for the good of them that fear him, and knows how to deliver the Godly out of Tamptations: Into whoſe Hands it is better to commit the keeping of our Souls in well-doing, with ſuch hazards as attend the outward Man, then for the preſervation of the outward Man, to ſtrain any Religious Opinion in reference to civil Concerns in any ſuch manner or meaſure as is inconſiſtent with the general Laws of Religion and Nature, for whoever makes uſe of any ſuch method to preſerve his civil Concerns, or defend or propagate his Religion, it may be ſuſpected he is either wrong in his Opinion, or takes a wrong courſe to maintain it.

FINIS